THE

BOOK OF THE GENERAL

LAWS

Of the Inhabitants of the *Jurisdiction* of

NEW-PLIMOUTH;

Collected out of the Records of the

GENERAL COURT

And lately revised, and with some Emendations and Additions, Established and Disposed into such Order as they may readily conduce to general use and benefit,

And published by the Authority of the General Court for that Jurisdiction, held at *Plimouth*, the sixth of *June*, *Anno Dom.* 1671.

[illegible] 1711: paid Jn° Burnd 11 for Shods

Be subject to every Ordinance of Man for the Lords sake.
1 Pet. 2. 13.

CAMBRIDGE,
Printed By *Samuel Green* 1672.

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To our Beloved Brethren and Neighbours, the Inhabitants of the Juriſdiction of

NEW-PLIMOUTH;

The Governour, Aſſiſtants, and Deputies Aſſembled at the General Court of that Juriſdiction, held at the Town of *PLIMOUTH*, the firſt day of *June*, *Anno Dom.* 1671.

Wiſheth Grace and Peace in our Lord Jeſus Chriſt.

IT *was the great priviledge of* Iſrael *of old, and ſo was acknowledged by them,* Nehem. 9. 13. That God gave them right Judgements and true Laws; *For God being the God of Order, and not of Confuſion, hath commanded in his Word, and put man into a capacity in ſome meaſure to obſerve and be guided by good and wholeſome Laws; which are ſo far good and wholeſome, as by how much they are derived from, and agreeable to the ancient Platform of Gods Law: For although ſundry particulars in the Judicial Law, which of old was injoyned to the Jews, did more eſpecially (at leaſt in ſome circumſtances) befit their Pedagogue, yet are they for the main ſo exemplary, being grounded on Principals of Moral Equity, as that all men (Chriſtians eſpecially) ought alwayes to have an eye thereunto, in the framing of their Politick Conſtitutions; And although ſeveral of the Heathen Nations who were ignorant of the true God and of his Law, have been famous in their times, for the Enacting and Execution of ſuch Laws as have proved profitable for the Government of their Common-wealth in the times wherein they lived; yet notwithſtanding their excellency appeared ſo far, as they were founded upon grounds of Moral Equity, which hath its Original from the Law of God. And accordingly we who have been Actors in the framing of this ſmall body of Laws, together with other uſeful Inſtruments who are gone to their reſt, can ſafely ſay both for our ſelves and them,* that we have had an eye primarily and principally unto the aforeſaid *Platform*; *and Secondarily*, unto the right improvement of the liberties granted unto us, by our Soveraign Lord the King at the firſt beginning of this Inſtant *Plantation*; which was to Enact ſuch Laws as ſhould moſt befit a State in the *Non-age* thereof; *not rejecting or omitting to obſerve ſuch of the Laws of our Native Country, as would conduce unto the good and growth of ſo weak a beginning as ours in this Wilderneſs, as any impartial eye not fore-ſtalled with prejudice, may eaſily diſcern in the peruſal of this ſmall Book* of the Laws of our Colony; *the premiſes duely conſidered, might work every Conſcientious Spirit to faithful Obedience: And although we hold and do affirm, that both Courts of Juſtice and Magiſtrates, who are the Miniſters of the Law are eſſentially civil, notwithſtanding we conceive, that as the Magiſtrate hath his power from God, ſo undoubtedly he is to improve it for the honour of God, and that in*

the upholding of his Worſhip and ſervice, and againſt the contrary, with due reſpect alſo to be had unto thoſe that are really conſcientious, though differing and diſſenting in ſome ſmaller matters; But if any really or in pretence of Conſcience ſhall profeſs that which eminently tendeth to the Inundation of Civil State, and violating of natural Bonds, or the overthrow of the Churches of God or of his Worſhip, that herein prudence is to be improved in a ſpecial manner, in the Enacting and Execution of ſuch Laws as may be uſeful for the upholding of the ſame againſt ſuch deſtructive Errors.

It hath been our endeavours in framing of our Laws, that nothing ſhould be found amongſt them, but that which will fall under the ſame particulars, we have likewiſe reduced them to ſuch Order, as they may moſt conduce to general utility and profit; ſome of the Orders intended for preſent convenience, may probably be hereafter altered, and as need requireth other Laws added ſuitable to ſuch alternate changes as is uſual in Common-wealth reſpects and conſiderations, eſpecially in reference to ſome circumſtances relating to ſome Laws and Orders, though ſeldome and rare with reference to Capitals.

Poſſibly it may be that weakneſs may appear in the compoſure of ſeveral of our Laws here preſented to publick view for want of ſuch plenty of able Inſtruments as others are furniſhed withal: However let this ſuffice the gentle Reader that our ends are to the utmoſt of our powers in theſe our endeavours, to promote both Church and State, and the honour of God in both, not only for the preſent but with an eye unto future; and therefore ſo far as it doth and may appear, that we have aimed at the Glory of God, the Honour of his Majeſty, and Common good, and acted according to God; Bee not found a Reſiſter but Obedient, leaſt thereby thou reſiſt the Ordinance of God, and ſo incurre the diſpleaſure of God unto Damnation. *Rom. 13. 2.*

By Order of the General Court for the Juriſdiction of *New-Plimouth.*

Nathaniel Morton Secr.

THE GENERALL

LAWS

AND

LIBERTIES

OF

NEW-PLIMOUTH

COLONY.

Revised and Published by Order of the

GENERALL COURT,

In *June* 1671.

CHAP. I.

The Generall Fundamentals.

1. WEE the *Associates of* New-Plimouth, *comeing hither as Free-born Subjects of the State of* England, *endowed with all and singular; the Priviledges belonging to such being Assembled;* Laws to be made by the Freemen or their representatives.

Enact. Do in Act, Ordain and Constitute; That no Act, Imposition, Law or Ordinance, be made or imposed upon us, at present or to come; but such as shall be made or imposed by consent of the Body of Freemen or Associates, or their Representatives legally Assembled: which is according to the free Liberties of the State of *England.*

Annual Elections by Freemen.

2. *And for the well-governing this Corporation*; It is also Resolved and Ordered, That there be a Free Election Annually, of Governour, and Assistants by the Vote of the Freemen of this Corporation; and that none shall presume to impose themselves or any other upon us, but such as are so chose, according to the priviledge granted us by Charter.

Justice equally and speedily administred.

3. That Justice and Right be equally and impartially Administred unto all, not sold, denied or causelessly deferred unto any.

None to suffer but according to Law of this Colony, Law of God or Law of England.

4. It is also Enacted, that no person in this Government shall be endamaged in respect of Life, Limb, Liberty, Good name or Estate, under colour of Law, or countenance of Authority, but by virtue or equity of some expres Law of the General Court of this Colony, the known Law of God, or the good and equitable Laws of our Nation suitable for us, being brought to Answer by due proces thereof.

All Tryals to be by a Jury.

5. That all Trials, whether Capital, Criminal, or between Man and Man, be tried by Jury of twelve good and lawful Men, according to the commendable custome of England; except the party or parties concerned, do refer it to the Bench, or some expres Law doth refer it to their Judgement and Tryal, or the Tryal of some other Court where Jury is not; in which case any party agrieved, may appeal, and shall have Tryal by a Jury.

Liberty to challenge the Jury.

And it shall be in the liberty of both Plaintiffe and Defendant or any Delinquent, that is to be tryed by a Jury, to chalenge any of the Jurors, and if the chalenge be found just and reasonable by the Bench, it shall be allowed him, and others without just exception shall be impannelled in their room: And if it be in case of Life and Death, the Prisoner shall have liberty to except against six or eight of the Jury, without giving any reason for his exception.

What testimony in cases Capital.

6. That no Man be Sentenced to Death without Testimonies of two witnesses at least, or that which is equivalent thereunto, and that two or three Witnesses being of competent Age, Understanding and of good Reputation, Testifying to the Case in question, shall be accounted and accepted as full Testimony in any Case, though they did not together see or hear, and so Witnes to the same individual Act, in reference to circun stances of time and place; Provided the Bench and Jury be satisfied with such Testimony.

Power & liberty for all to Will away their estate

7. And It is provided, as the supposed Priviledge of our Charter, that all persons of the age of *twenty one* years, of right Understanding and Memory, whether Excommunicated, Condemned or other, having any Estate properly theirs to dispose, shall have full power and liberty to make their reasonable Wills and Testaments, and other lawful Alienations of their Lands and Estates; Be it only here excepted, that such as are Sentenced for Treason against the Kings Majesty, the State of England, or the Commonweal; shall forfeit to the King or Colony their personal Estate, their Lands being still at their disposal.

except such as are sentenced for Treason.

The great end of our comeing into this Wilderness Was to enjoy the pure Worship of God

8. *That whereas the great and known end of the first comers, in the year of our Lord, 1620. leaving their dear Native Country, and all that was dear to them there; transporting themselves over the vast Ocean into this remote waste Wilderness, and therein willingly conflicting with Dangers, Losses, Hardships and Distresses sore and not a few; WAS, that without offence, they under the protection of ther Native Prince, together with the enlargements of his Majesties Dominions, might with the liberty of a good Conscience, enjoy the pure Scriptural Worship of God, without the mixture of Humane Inventions and Impositions: And that their Children after them might walk in the Holy wayes of the Lord; And for which end they obtained leave from King* James *of happy Memory and his Honourable Council, with further Graunts from his Gracious Majesty* Charles *the first and his Honourable Council, by Letters, Patents, for sundry Tracts of Land, with many Priviledges therein contained, for their better incouragement to proceed on in so Pious a Work, which may especially*

especially tend to the propagation of Religion, &c. as by Letters Patents more at large appeareth, and with further assurance also of the continuance of our Liberties and Priviledges, both Civil and Religious, under the Royal Hand and Seal of our Soveraign Lord King Charles *the Second: And whereas by the good Hand of our God upon us, many others since the first comers are for the same pious end come unto us, and sundry others rise up amongst us, desirous with all good Conscience to walk in the Faith and Order of the Gospel; whereby there are many Churches gathered amongst us walking according thereunto.*

And whereas (by the Grace of God) *we have now had near about fifty Years Experience, of the good Consistency of these Churches, with Civil Peace and Order, and also with spiritual Edification, together with the welfare and tranquility of this Government;*

It is therefore for the Honour of God and the propagation of Religion, and the continued welfare of this Colony Ordered by this Court and the Authority thereof, That the said Churches already gathered, or that shall hereafter be orderly gathered, may and shall from time to time by this Government be protected and encouraged, in their peaceable and orderly walking, and the Faithful, Able, Orthodox, Teaching Ministry thereof, duely encouraged and provided for; together with such other Orthodox able Dispensers of the Gospel, which shall or may be placed in any Township in this Government, where there is or may be defect of Church Order.

The Churches of Christ here to be protected in their peaceable and orderly walking, and the Ministers of the Gospel provided for.

9. And Finally, it is Ordered and Declared by this Court and the Authority thereof, That all these foregoing Orders and Constitutions, are so Fundamentally essential to the just Rights, Liberties, Common good and special end of this Colony, as that they shall and ought to be inviolably preserved.

All the foregoing fundamentals inviolably to be preserved.

CAPITAL LAWS

CHAP. II.

IT is Enacted by this Court and the Authority thereof, That if any person having had the knowledge of the true God, openly and manifestly, Have or Worship any other God but the Lord God, he shall be put to Death, *Exod. 22. 20. Deut. 13. 6, 10.*

Idolatry.

2. If any Person within this Jurisdiction, professing the true God, shall wittingly and willingly presume to Blaspheme the Holy Name of God, Father, Son or Holy Ghost, with direct, express, presumptuous or high-handed Blasphemy, either by wilful or obstinate denying of the true God, or His Creation or Government of the World; or shall Curse God, Father, Son or Holy Ghost, such Person shall be put to Death, *Levit. 24. 15, 16.*

Blasphemy.

Treason. 3. Treason against the Person of our Soveraign Lord the King, the State and Common-wealth of *England*, shall be puunished by Death.

Conspiring against this Jurisdiction. 4. That whosoever shall Conspire and Attempt any Invasion, Insurrection, or Publick Rebellion against this Jurisdiction, or the Surprizal of any Town, Plantation, Fortification or Amunition, therein provided for the safety thereof, or shall Treacherously and Perfidiously Attempt and Endeavour the Alteration and Subversion of the Fundamental Frame and Constitutions of this Government; every such Person shall be put to Death.

Wilful Murther premeditate 5. If any Person shall Commit wilfull Murther by killing any Man, Woman or Childe, upon premeditated Malice, Hatred or Cruelty, not in a way of necessary and just Defence, nor by casualty against his Will; he shall be put to Death.

Sudden murther or passion. 6. If any Person slayeth another suddenly in Anger and Cruelty of Passion; he shall be put to Death.

Murder by guile or poysoning 7. If any Person shall slay another through Guile, either by Poysoning or other such Develish practises; he shall be put to Death.

Witchcraft. 8. If any Christian (so called) be a Witch, that is, hath, or consulteth with a Familiar Spirit; he or they shall be put to Death.

Bestiality. 9. If any Person lyeth with a Beast or Bruit Creature, by Carnal Copulation, they shall surely be put to Death, and the Beast shall be slain and buried and not eaten.

Sodomy. 10. If any Man lyeth with Mankinde, as he lyeth with a Woman, both of them have committed Abomination; they both shall surely be put to Death, unless the one party were forced, or be under *fourteen* years of Age: And all other Sodomitical filthiness, shall be surely punished according to the nature of it. *severe*

False-witnes 11. If any Person Rise up by False Witness, wittingly and of purpose to take away any Mans life; he shall be put to Death.

Man-stealing. 12. If any Man Stealeth Man-kinde, he shall be put to Death or otherwise grievously punished.

Cursing or smiting Father or Mother. 13. If any Childe or Children above *sixteen* years old, and of competent Understanding, shall Curse or Smite their Natural Father or Mother, he or they shall be put to Death, unless it can be sufficiently testified that the Parents have been very Unchristianly negligent in the Education of such Children, or so provoked them by extream and cruel Correction, that they have been forced thereunto, to preserve themselves from Death or Maiming.

The Rebellious Son. 14. If a Man have a Stubborn or Rebellious Son, of sufficient years and understanding (*viz.*) *sixteen* years of Age, which shall not obey the voice of his Father, or the voice of his Mother, and that when they have chastened him, will not hearken unto them; then shall his Father and Mother, being his natural parents, lay hold on him, and bring him before the

the Magistrates assembled in Court, and testifie unto them, that their Son is Stubborn and Rebellious, and will not obey their voice and chastisement, but lives in sundry notorious crimes; such a Son shall be put to Death, or otherwise severely punished.

15. If a Man shall Ravish a Maid or Woman, committing Carnal Copulation with her by force; that is above the age of *ten years*, or if shee were under *ten years* of age, though her will was gained by him, he shall be punished with Death or some other grievous punishment, according as the Fact may be circumstanced. *Rape.*

16. Whosoever shall wilfully or on purpose, Burn any House, Ship, Barque or other Vessel of considerable value; such person shall be put to Death, or otherwise grievously punished, as the case and circumstances of it may require. Wilful burning of Houses, Ships &c.

CHAP. III.

CRIMINALS.

IT is Ordered by this Court and the Authority thereof; That what person soever is to Answer any Criminal Offence, whether they be in prison or under Bayle, his Ca e shall be heard and determined at the next Court that hath proper cognizance thereof, and may be done without prejudice of Justice.

2. It is Enacted by this Court, &c. That whosoever shall Commit Adultery with a Married Woman, or one Betrothed to another Man, both of them shall be severely punished, by whipping two several times, *viz.* once when the Court is in being, at which they were Convict of Fact, and the second time as the Court shall Order; and likewise to wear two Capital Letters, A. D. cut out in Cloth and sewed on their uppermost Garments, on their Arm or Back; and if at any time they shall be found without the said Letters so worne, whileſt in this Government, to be forthwith taken and publickly whipt, and so from time to time as often as they are found not to wear them. Adultery how punished

3. Be it also Enacted, That whosoever Committeth Fornication, before, or without lawful Contract, shall be punished by whipping, or else pay *ten pounds* fine each of them, and be imprisoned during the pleasure of the Court, not exceeding three dayes; but if they be or will be Married to each other, then but *ten pounds* both, and imprisoned as aforesaid, by lawful Contract, the Court understanding the mutual con ent of Parents, Guardians or Overseers, and a solemn promise of Marriage made to each other by the parties, before competent Witnesses. Fornication without contract. If they be or will be Married

And if any Commit Carnal Copulation after Contract, before Marriage, they shall be Amerced each of them *fifty shillings*, and be imprisoned if the Court see Reason; And if any cannot or After Contract

will not pay the fine, then to be punished by whipping. *And for the more discountenancing of this prevailing evil:*

The Court hath further Determined, That such as transgress in any of these wayes, shall be convict in publick Court; and their fines to be paid in money.

4. *Forasmuch as many persons of late years have been and are apt to be injurious to the Goods and Lives of others, notwithstanding all Laws and Means to prevent and punish the same;*

Burglary or open Robbery

It is therefore Ordered by this Court and Authority thereof, That if any person shall commit Burglary, by breaking up any Dwelling House, or Ware-house, or shall forceably Rob any person in the Field, or Highwayes; such Offender shall for the first offence be Branded on the right Hand with the letter (B,) and if he shall offend in the same kinde the second time, he shall be Branded on the other Hand and be severely whipped; And if either were committed on the Lords day, his Brand to be set on his Forehead; And if he shall fall into the like offence the third time, he shall be put to Death, as being Incorrigeable, or otherwise grievously punished, as the Court shall Determine.

First.

Second.

Third offence.

Stealing of Vessels or Ammunition.

5. And whosoever shall steal or attempt to steal any Ship, Barque, or Vessel of Burthen, or any Publick Amunition, shall be severely punished, according to the nature of such a Fact, provided it extend not to Life or Limbe.

Stealing or Purloining

6. That if any Stranger, or Inhabitant of this Government, shall be legally convict of Stealing or Purloining any Horses, Chattels, Moneys, or other Goods of any kinde, he shall be punished by due reparation to the party wronged; and a fine, or Corporal punishment, as the Court or three Magistrates shall Determine; Provided that where such Sentence is not given by the Court, it shall be at the liberty of the Delinquent to Appeal to the next Court, putting in due caution there to appear and abide a Tryal.

Smaller Thefts and Pilfrings

7. That any Magistrate may Hear and Determine such smaller Thefts and Pilfrings, as exceeds not the damage or fine of *forty shillings*, or penalty of Stocking or Whipping, not exceeding *ten stripes*, or only legal Admonition, as he shall see cause; saving liberty of Appeal to the Delinquent as aforesaid.

Prophane Swearing

8. It is Enacted by the Court, &c. That whosoever shall prophanely Swear or Curse by the Name of GOD, or any of his ATTRIBUTES, WORD or WORKS; He or Shee shall be set in the Stocks, not exceeding three hours, or be fined *ten shillings*, or be Imprisoned, according to the quality of the person; if a Stranger, the Constable or his Deputy shall demand the fine, which if he refuse, then to set him in the Stocks, not exceeding two hours.

9. *This Court taking notice of great abuse, and many misdemeanours committed by divers persons in these many wayes, Prophaning of the Sabbath or Lords-day, to the great dishonour of God, Reproach of Religion, and Grief of the Spirits of Gods People;*

Prophanation of the Sabbath

Do therefore Order, That whosoever shall Prophane the Lords day, by doing unnecessary servile Work, by unnecessary travailing, or by sports and recre-

recreations, he or they that ſo tranſgreſs, ſhall forfeit for every ſuch default *forty ſhillings*, or be publickly whipt: But if it clearly appear that the ſin was proudly, preſumptuouſly and with a high hand committed, againſt the known Command and Authority of the bleſſed God, ſuch a perſon therein Diſpiſing and Reproaching the Lord, ſhall be put to death, or grievouſly puniſhed, at the Judgement of the Court. If preſumptuouſly

10. And whoſoever ſhall frequently neglect the publick Worſhip of God on the Lords day, that is approved by this Government, ſhall forfeit for every ſuch default convicted of, *ten ſhillings*, eſpecially where it appears to ariſe from Negligence, Idleneſs or Prophaneſs of Spirit. Neglect of the publick worſhip

11. *Foraſmuch as the open contempt of Gods Word, and the Meſſengers thereof, is the deſolating ſin of Civil States and Churches*;

It is Enacted, that if any Chriſtian ſo called in this Government, ſhall ſpeak contemptuouſly of the Holy Scriptures, or of the Holy Penmen thereof, ſuch perſon or perſons ſhall be puniſhed by Fine or Corporal puniſhment, as the Court ſhall ſee reaſon, ſo as it extend not to Life or Limbe. Vilifying the Scriptures

or Holy Penmen or them

Or ſhall behave himſelf contemptuouſly towards the Word of God Preached, or any Miniſter thereof called, and faithfully diſpenſing the ſame in any Congregation, either by manifeſt interrupting him in his Miniſterial Diſpenſations, or falſly and peremptarily charging him with Teaching Error, to the diſparagement and hindrance of the Work of Chriſt in his hands, or manifeſtly and contemptuouſly reproach the Wayes, Churches or Ordinances of Chriſt, being duely convicted thereof, He or They ſhall for the firſt Tranſgreſſion, be amerced *twenty ſhillings* to the Colonies uſe, or be ſet in the Stocks, not exceeding *four hours*; But if He or They go on to Tranſgreſs in the ſame kinde, then to be amerced *forty ſhillings* or be whipt for every ſuch Tranſgreſſion. or the Word Preached

or the Miniſters thereof

or the wayes of Churches or Ordinances of Chriſt

It is to be underſtood not hereby to deprive any of their lawful liberty, in a modeſt and orderly way to propoſe his ſcruple for further ſatisfaction.

12. *Although no Creature be Lord, or have power over the Faith and Conſciences of men, nor may conſtrain them to believe or profeſs againſt their Conſciences, yet it being a duty to reſtrain or provide againſt ſuch as may bring in dangerous Errors or Hereſies, tending to corrupt and deſtroy the Souls of men*;

It is therefore Ordered, &c. That if any Chriſtian (ſo called) ſhall within this Juriſdiction, go about to ſubvert or deſtroy the Chriſtian Faith, or Religion, by broaching, publiſhing or maintaining any ſuch dangerous Error or Hereſie, or ſhall endeavour to draw or ſeduce others thereunto; every ſuch perſon ſo offending, and continuing obſtinate therein, after due means of conviction, ſhall be fined, baniſhed, or otherwiſe ſeverely puniſhed, as the Court of Magiſtrates duely conſidering the offence, with the aggrevating Circumſtances and Dangers like to enſue ſhall judge meet. Hereſie,

13. It is Ordered, &c. That where a Judgement is given in any Court, for any perſon of Houſe or Lands, upon the tryal of the Title thereof, or other juſt cauſe, if the perſon againſt whom the Judgement is given, doth either forcibly detain poſſeſſion thereof, either againſt the Officer impowred to ſerve an Execution thereon, or after Execution ſerved, enter upon it again and to retain poſſeſſion by force, he ſhall be accounted an Forceable detainer

Entry & poſſeſſion

high Offender againſt the Law and Breakers of the publick Peace; therefore ſpeedily to Redreſs ſuch a Criminal Offence, every Magiſtrate is impowred and by his place hath power to give Warrant and Command to the Marſhal, Officer and other men (whom he thinks meet to be imployed in the buſineſs) the Marſhal or other Officer alſo requiring aid, greater or leſſer (as need requires) to ſuppreſs the force, and give Poſſeſſion to the Owner, and to impriſon ſuch as do appear to be Delinquents and their Aiders and Abettors, to be forth-coming at the next Court that did give the Judgement in the Caſe, there to make their Anſwer, and whom the Court doth finde guilty, to ſet ſuch fine or other puniſhment upon them as the merit of their ſeveral Caſes doth require.

Diſturbance of the peace

14. It is Ordered, &c. That whoſoever ſhall diſturbe or undermine the peace of this Juriſdiction or Inhabitants thereof, by plotting with others, or by his own tumultuous and offenſive carriage, traducing, quarreling, challenging, or aſſaulting, or any other way tending to publick diſturbance, in what place ſoever it be done, or ſhall deſame any Court of Juſtice, or any of the Magiſtrates or Judges of any Court in this Juriſdiction, in reſpect of any Act or Sentence therein paſſed; every ſuch Offender, upon due proof made, ſhall be by the Court of Magiſtrates puniſhed by fine, impriſonment, binding to the Peace or good Behaviour, according to the quality and meaſure of the Offence or Diſturbance, to them ſeeming juſt and equal.

Defamation of Court or Judge.

Beating or hurting of any perſon.

And that ſuch as Beat, Hurt or Strike any other perſon, ſhall be liable to pay unto the party hurt or ſtricken, together with ſuch fine to the Colony, as on conſideration of the party ſmiting or being ſmit, and with what Inſtrument, danger more or leſs, time, place, provocation, &c. ſhall be judged juſt and reaſonable to the merit of the Offence.

Forging of Deeds, Bills, Bonds, &c.

15. It is Ordered, &c. That if any perſon ſhall Forge any Deed or Conveyance, Teſtament, Bond, Bill, Releaſe, Acquittance, Letter of Aturney, or any Writeing to pervert Equity and Juſtice, he ſhall pay the party grieved double damages, and be fined himſelf ſo much to the Countries uſe; and if he cannot pay it, to be publickly whipt, and burned in the Face with a Roman F.

Falſifying of Records

16. Be it alſo Enacted; That if any Notary or Keeper of publick Records, or Writeings, ſhall wilfully imbezle or make away any ſuch Records or Writeings of Concernment, committed to his keeping and truſt, or ſhall on purpoſe falſifie or deface them, by racing out, adding to them, or otherwiſe; Such Corrupt Officer ſhall loſe his Office, be Diſfranchized, and be burned in the Face, or fined, according to the circumſtances of the Fact.

He that corrupteth an Officer to ſuch intent

17. And if any perſon ſhall endeavour to corrupt any Officer, that keepeth ſuch publick Records or Papers of concernment, to procure him to Deface, Corrupt, Alter, or Imbezle any of them, he ſhall be ſeverely puniſhed, by Fine, Impriſonment, or Corporal puniſhment, as the matter may be circumſtanced.

Lying.

18. It is Enacted by this Court, &c. That what perſon ſoever, being *ſixteen years of age*, ſhall wittingly or willingly make or publiſh any Lye, which may be tending to the damage or hurt of any particular perſon, or with

with intent to deceive and abuſe the people with falſe News or Reports, ſhall be fined for every ſuch default *ten ſhillings*, and if the party cannot or will not pay the fine, then he ſhall ſit in the ſtocks ſo long as the Court ſhall think meet; and if the Offender ſhall come to a Magiſtrate, and own his offence, it ſhall be in the power of that Magiſtrate to execute the Law upon him where he liveth, and ſpare his appearance at the Court, but in caſe where the lye is greatly pernicious to the publick weal, it ſhall be more ſeverely puniſhed according to the nature of it.

19. It is Enacted by this Court, &c. That if any perſon ſhall wilfully, and of ſet purpoſe, burn any mans fence; he ſhall make good the damage to the party wronged, be amerced *forty ſhillings*, and be bound to the good Behaviour if the Court ſee reaſon. Wilful burning of Fences

20. And it is further Ordered; That any perſon that ſhall wilfully and on purpoſe break down another mans Fence, Gate or Bridge, to the annoyance either of a particular perſon, or a neighbour-hood; he ſhall make up ſuch ſaid Fence, Gate or Bridge at his own charge, pay the damage thereby ſuſtained, and be amerced according to the nature of the offence: ſaving the right of him that pulls up a Fence ſet on his Land without his approbation. Breaking of Fence Gate or Bridge

21. And whoſoever ſhall wilfully pluck up, remove or deface any Landmark or Bounds between party and party, that have been, or ſhall be orderly ſet up by perſons thereunto appointed; he or they ſhall be fined from *twenty ſtillings to five pounds* as the offence may be circumſtanced. Removing of Land marks

22. It is Enacted by this Court, &c. That no In-keeper or publick Houſe, ſhall ſuffer any unlawful Games, nor any kinde of Gaming in or about his Houſe, for money or monies worth, Liquors, Wine, Beer, or the like, on forfeit of *forty ſhillings* for the Maſter or Keeper of the houſe, and *ten ſhillings* a piece from each Gameſter. Gaming at publick Houſes

23. Be it alſo Enacted, That no perſon in this Government, ſhall play at Cards, Dice, Croſs and Pile, or any ſuch unlawful Game, wherein there is Lottery, at any private houſe or elſe where in this Government on penalty of *ten ſhillings* fine, to be paid by every one that ſo playes, and *twenty ſhillings* by the Maſter or Head of a Family that ſhall know of and ſuffer ſuch Gaming in his Houſe or where he hath Command. Playing at unlawful Games

24. It is Enacted by this Court, &c. That no perſon in this Government ſhall wear any Vizards, or diſguiſe by ſtrange Apparel, to laſcivious and evil ends and purpoſes, on penalty of being fined *fifty ſhillings* to the Colonies uſe, for every ſuch default, or being publickly whipt or bound to the good Behaviour, as the Court may ſee reaſon. Wearing vizards

25. *Foraſmuch as it is obſerved, that the ſin of Drunkenneſs, doth greatly abound, to the diſhonour of God, impoveriſhing of ſuch as fall into it, and grief of ſuch as are ſober minded; For prevention, and it may be ſuppreſſion of that growing and prevailing evil;*

It is Enacted by this Court and Authority thereof, that whatſoever perſons ſhall be found drunk at any time in any Tavern, Ordinarie, Ale-houſe or elſe Penalty of drunkenneſs

in this Government, or be legally convict thereof, he or they shall for the first default be fined *five shillings* to the Countries use; for the second default *ten shillings*, and if he or they will not, or cannot pay the fine, then to be set in the Stocks, not exceeding two hours; for the third transgression to be bound to the good behaviour, and if he shall transgress a fourth time, to pay *five pounds* or be publickly whipt, and so from time to time as often as they shall be found transgressors in that kinde: by Drunkenness is to be understood, one that lisps or falters in his speech by reason of over much Drink, or that staggers in his going, or that vomits by reason of excessive drinking, or that cannot by reason thereof follow his calling.

Drunkenness defined.

26. *Whereas notwithstanding all the care and endeavours of this Court to prevent that great and raging sin of Drunkenness; yet still many goe on in it;*

Therefore this Court doth further Act, That the Names of such as are found to be common Drunkards in this Government, shall be inrouled or recorded; and that whatever person or persons, whether Ordinary keepers or others, shall give, sell or lend, either directly or indirectly any strong Liquors, or Wine, or strong Beer unto any such person or persons, shall forfeit *ten shillings*, *five shillings* to the Colonies use, and *five shillings* to the Informer.

And the Names of such as are so found in any Town, shall be set up in some publick place.

27. *Whereas many have sustained great damage by indiscreet and untimely firing of the Woods;*

Untimely firing the woods

It is Ordered, &c. That none shall fire the Woods at any time, but they shall give warning thereof to their neighbours about them, and the time of firing them, to be between the *fifteenth of February* and the latter end of *April*; and if any shall unnecessarily fire the Woods, or not observing this Order, damnifie any, he shall make good the damage, and be fined *ten shillings* or be set in the Stocks.

28. *And forasmuch as some have been injured by careless taking of Tobacco abroad in the Streets, and near unto Barns, Stables, Hay-Stacks, or Corn-ricks;*

Careless smoaking of Tobacco

It is hereby Ordered, &c. That whosoever shall be found smoaking of Tobacco in the Streets, or in such places of danger, shall forfeit to the poor of the Town *two shillings* for every such default, which the Constable may without further Warrant, distrain and dispose of; and if it can be known that damage did accrue unto any by such careless smoaking of Tobacco, it shall be repaired by him that was the occasion of it, or he shall be made to serve it out: Souldiers whileſt in Arms are dispensed with, to smoak it in the field.

And if any person or persons shall be found smoaking of Tobacco on the Lords-day, going to, or comeing from the Meetings, within two miles of the Meeting-house, they shall pay *two shillings* for every such default, to the Colonies use.

CHAP.

CHAP. IV:

ACTIONS.

IT is Enacted by this Court, &c. That in all Warrants respecting Actions, the special ground of the Action shall be expressed: And that a circumstantial Error in a Summons or Warrant shall not be taken as a sufficient ground for a Non-suit, where otherwise both the party and case intended may be rationally understood; and it shall also be expressed in the Warrant, in what quality the Plaintiffe Sues, whether as Principle, Attorney, Guardian or otherwise. Grounds of Non suit

2. *Because much time is lost in the beginning of Courts of Tryals, by neglect of timely Entry of Actions*;

It is Enacted by this Court, That Actions shall be Entred upon, or before the first day of the Courts sitting, and not after; And in case any Plaintiffe shall delay his Entry longer then the forenoon of the first day of the Court, he shall pay *ten shillings* to the Countries use, besides ordinary Fees for Tryal of Actions. And all persons whether parties or witnesses are enjoyned to attend their respective concerns the whole time of the Courts publick sitting until they are issued. Time of Entry of Actions

And shall present the whole plea and evidence before the case be committed to the Jury, and no other plea or evidence to be admitted to any person, any usage or custome to the contrary notwithstanding. No further plea after the case is committed to Jury

And to this end all Marshals and Constables, are required to make their returns of all such Warrants as they have served, sometime the first forenoon of the Court that is to take cognizance of the case concerned therein.

3. *Whereas in Suits and Actions brought into Courts between party and party, sometimes the Plaintiffe, and sometimes the Defendant, and sometimes neither of them do attend the call, to prosecute or answer, to the great abuse of Court and Jury, and others concerned in the case, and is contrary to the laudable custome of all Courts in our Native Country and else where*; Non-attendance upon Actions

It is therefore Ordered and Enacted, That if any Plaintiffe have entred an Action, to be tryed in this Court, or which comes by Replevin, Review, or otherwise, and doth not by himself or by his Attorney, make their appearance and prosecute their Action, after they have been three times called in Court, they shall be Non-suited; and if the Defendant appear not to such call, the Plaintiffe appearing, the Suit shall nevertheless proceed: And if plaintiffe or Defendant appear at their call, they shall have their costs granted against him that appeared not; and if afterwards both parties do agree to try the Case at the same Court, they shall be allowed so to do, the Plaintiffe paying for a new Entry, one half to the Treasury, and the other to the Jury and Officers. Plaintiffe damage

Defend. damage

A way for re entry

4. And if any person Summoned to answer any Presentment, or for any Fact or Misdemeanour, do not appear at the time appointed, he or they shall be proceeded against for contempt, except it appear they have been prevented by the Hand of God. Non attendance on presentments

Charge of Trials

5. The ordinary setled charge for the tryal of an Action in this Court, shall be *nine shillings*, for the Jury, Secretary, and Marshal, distributed according to the former custome of the Court, and *two shillings six-pence per* day to Witnesses: And if the Defendant obtain a Verdict, he shall not only have his Costs allowed him for Witnesses as aboveſaid; but *two shillings sixpence per* day for what time he hath necessarily attended on the Action, shall be given him without Suit, and this shall bare the Defendant from Suit, unless by Imprisonment, or otherwise he hath been more then ordinarily damnified.

Plaintifs liberty to withdraw

6. It is also Determined, That it shall be at the liberty of a Plaintiffe, to withdraw his Action at any time before the Jury bring in a Verdict if he see cause, in which Case he shall allow the Defendant his full costs, and may afterward Review his Suit at another Court.

Vexatious Suits

7. Be it also Enacted, That no man in any Suit, or Plaint against another, shall falsely pretend great damages, or debts, to vex or discredit his Adversary: And in all Cases where it appears to the Court, that the Plaintiffe hath wittingly wronged the Defendant, in commencing Suit, or prosecuting Complaint or Inditement against him, he shall pay unto the Defendant double costs, and be amerced *twenty shillings* or more, as the Case may be circumstanced, for such his vexatious Suit or Plaint.

Reviews

8. It is further Enacted, That in case a Plaintiffe obtain not a Verdict, he may Review his Action if he see cause; as likewise may the Defendant, if he be cast: but if either of them having fallen twice in his Case upon Review, do still go on to Review, and be cast a third time, whereby it appears that he is vexatious and troublesome to the Court and party prosecuted, he shall be awarded to pay double costs to the party and *twenty shillings* fine to the publick Treasury.

Judgem. granted

9. Be it also Enacted, That a Jury bringing in a Verdict, the Bench concurring and accepting it, Judgement shall be forthwith granted: But if they concur not, the Jury may be put upon further consideration of the Case; And if they still retain their Verdict, they shall be required to give their Reasons on which it is grounded, which if they refuse, or having given their Reasons, they appear not of weight, but the Jury through obstinacy or prejudice to the person or case, will maintain their Verdict, the Court may in such case reject such Verdict, and impannel another Jury, for the tryal of the Action, at that Court or the next; but if the second Jury do in the substance of their Verdict agree with the former, it shall be accepted.

When Verdict rejected

A new Jury impannelled

Forreigners shal not Attach Inhabitants without giving caution for costs

10. It is Ordered by this Court, &c. That no Attachments shall be granted in any civil Action to any Forreigner, against a setled Inhabitant of this Jurisdiction, before he hath given sufficient Security or Caution duely to prosecute his Action, and to answer the Defendant such costs and damages as the Court may award:

And it is further Ordered, That in all Attachments of Goods and Chattles, Lands, or Heriditaments, which may be in such case where the person cannot be had, whether it be by forreigners or setled Inhabitants, legal notice shall be given to the party concerned, or left in writeing at his House or place of usual abode before the Suit proceed: but if he be out of the Jurisdiction, the cause shall proceed to Tryal, but Judgement shall not

not be entred till another Court, at leaſt a Month after; and if the Defendant do not then appear, Judgement ſhall be entred, but Execution ſhall not be granted before the Plaintiffe hath given ſufficient Security to be Reſponſal to the Defendant, if he ſhall reverſe the Judgement within one year, or ſuch further time as the Court ſhall ſee cauſe to Order. Reſpit of Judgement and Execution

11. *Although it hath been the common uſage of this Court in ordinary caſes, not to allow Attachments on any Goods or other eſtate, where the perſon can be found to be reſponſible to the Plaint; the Court being apprehenſive that in ſome caſes perſons may be therein injured;*

Do hereby Order, That it ſhall henceforth be in the liberty of the Court, or any Magiſtrate, as they or he ſhall ſee cauſe on conſideration of circumſtances attending the caſe, to grant Attachment either of the perſon or eſtate or both. Liberty to Attach perſon or Eſtate or both at diſcretion

12. That a Summons from any Magiſtrate ſhall be a ſufficient warrant to bring any perſon within this Government, to anſwer to any Suit commenced againſt him. A Summons ſufficient Warrant

13. And that all Warrants, whether to Attach or Summon any to anſwer to an Action, Preſentment or Complaint ſhall be ſerved three compleat working dayes before the Court, or time appointed for appearance thereat. Warrants when to be ſerved

14. Be it alſo Enacted; That henceforth Goods Attached to a Tryal, ſhall not be releaſed upon the appearance of the party, or Judgement given, but ſhall ſtand engaged until the Judgement, or the Execution granted upon the ſaid Judgement be diſcharged, which for the time thereof, ſhall be as the Court ſhall Order, nor ſhall any Surety or Sureties for appearance at any Court, except in Capital or Criminal caſes, be releaſed from his or their Bond, until an hour at leaſt be expired after Judgement in ſuch caſe granted; any Cuſtome or Uſage of this Court to the contrary notwithſtanding. Goods Attached ſhall not be releaſed until Judgement be ſatisfied. Nor Sureties Bonds

15. Liberty is granted by this Court to any perſon, to improve one or two Attornies to help him in his Pleas; provided they be perſons of good repute, and ſuch as the Court ſhall approve; and the ſaid Attornies are required, as to be faithful to their Clyent, ſo alſo to avoid fraudulent pleas that may have attendency to miſlead the Court or darken the caſe. Attornies alowed.

16. And it is Enacted, That if any perſon be proved a common Barrater, by vexing others with unjuſt, frequent and troubleſome Suits, it ſhall be in the power of the Court, both to eject his cauſe, and puniſh him for his Barratry, by Fine or Impriſonment. Barratry puniſhed

17. It is alſo Ordered by this Court, That none ſhall have power to paſs away Lands, Heriditaments, or other Eſtate, or be capable of Sueing or being Sued at any Court in his own perſon, until he attain unto the age of *one and twenty years*: But any Orphan may choſe their Guardians to act for them, at the age of *fourteen years*, to ſecure or defend their Eſtate as may be requiſite. Age of diſcretion

18. It is Ordered, &c. That no mans perſon ſhall be reſtrained or

imprisoned by any Authority whatsoever, before the Law hath sentenced him thereunto, if he can put in sufficient Security, Baile or Mainprize, for his appearance and good Behaviour in the mean time, unless it be in Crimes Capital, and Contempt in open Court, or in such case where some expres Act of Court doth allow it.

Who Bailable

No levy on lands where goods to be found nor surety to be distrained where principle sufficient and found

19. It is Ordered, &c. That no Debt be leavied on Lands or Rents, so long as the Debtor hath Goods and Chattels to be found to satisfie; neither shall the Pledges or Sureties be distrained, so long as the Principle is sufficient and can be found.

nor beast of the plow or draught

20. That Beast of the Plough or Draught shall not be distrained for Debt, so long as others may be found to satisfie the Debt except for damage feasant.

Replevin

21. It is Ordered, That every man shall have liberty to Replevy his Chattel or Goods impounded, distrained or seized, unless it be upon Execution after Judgement, or for payment of Rates, or Fines, provided he put in good security to prosecute the Replevin, and to satisfie such damage and charge as his Adversary shall recover against him in Law.

Debts to be paid in specie.

22. That all Debts be paid in specie, according to Contract.

Fines to be forth with paid or secured

23. That when any Delinquents are fined to the Country, they shall forthwith pay their fine or give security to the Treasurer for the same, or their persons secured till they do.

and paid in money if exceed not 10. s.

And that all fines not exceeding *ten shillings* shall be paid in money.

CHAP. V.

COURTS.

THat the Affaires of this Jurisdiction may be the better carried on; It is Agreed and Declared, that there be several Courts, for several purposes, and of different constitutions and power.

And first of the General Court.

The General Courts constitution

THe General Court shall consist of the Governour, and Assistants, and Deputies for each Town-ship in this Jurisdiction, which Deputies shall be Annually chosen, according to order of Court in that case provided, and shall be sent to each General Court, with full power of all the Freemen deputed to them, and as the Countries Representatives, together with the Magistrates, to consult of, and determine all such matters, and to make and establish all such Laws and Orders as concerne the publick welfare of this Colony, the matter of Election of Magistrates and other

Power.

other Officers only excepted, wherein every Freeman is to give in his vote, according to the accuſtomed uſage of this Court.

Place and time of ſitting

2. It is Enacted, that this General Court, and all the Members thereof, ſhall meet and ſit at *Plimouth*, on the firſt tueſday in *June* Annually, (nothing extraordinary preventing) and that then there ſhall be the Election of all our Magiſtrates, *viz.* a Governour and ſeven Aſſiſtants, and likewiſe the Election of two Commiſſioners for the United Colonies, and our Treaſurer, who ſhall be all choſen out of the Freemen, and by the free Votes of the Freemen of this Corporation, and not otherwiſe.

Election of Governour, &c.

Eſtabliſhing of Officers

And that at this Court alſo, the Deputies, Select-men, Grand jury-men, Conſtables, and Supervizors of the High-wayes, be preſented to be eſtabliſhed in their reſpective places, all which being firſt diſpatched, then the Magiſtrates and Deputies ſhall continue together, to Conſider and Order all ſuch other affaires of this Juriſdiction as fall within their Cognizance, Truſt and Power, until they ſhall ſee cauſe to diſſolve or adjourn the ſaid Court unto another time.

Diſſolution or adjournment of the Court

Power to ſummon a General Court of the body of Freemen, or their Repreſentatives on ſpecial occaſions

3. It is alſo Ordered, That beſide the ſaid fixed Courts, the Governour or in his abſence, the Deputy Governour, and in their abſence, the greater part of the Magiſtrates of this Juriſdiction, ſhall have power to Summon a General Court, either the whole body of Freemen, or their Repreſentatives at any time, as the urgent and extraordinary occaſions of the Juriſdiction, or any part thereof may require.

Fine for non appearance or departure without licenſe

And if any of the ſaid Magiſtrates, or Deputies ſhall without juſt cauſe, either be abſent at the firſt ſitting of any of the ſaid General Courts, whether ordinary or extraordinary, or without leave depart, or diſorderly abſent him or themſelves from the ſervice thereof, before the Court be finiſhed, he or they ſhall each of them pay *twenty ſhillings*, for a fine to the Juriſdiction, for ſuch abſence or departure, but if the abſence or departure be mingled with Contempt, or wilful neglect, the fine ſhall be increaſed, as the Court upon due conſideration of the offence, with the aggravations, ſhall judge meet.

Increaſed as circumſtanced with Contempt

4. *And in regard that through Age, Inability of Body, or Urgency of Occaſions, many of the Freemen cannot attend the Courts of Election*;

Liberty to ſend votes by Proxy

Liberty is hereby granted to ſuch of the Freemen as will not be there in perſon, to ſend their Votes by Proxy, *viz.* by the Deputies of their reſpective Towns; provided that ſuch Votes be given to the ſaid Deputies in open Town-meeting, and ſhall by the Deputies, be there ſealed up ſeverally (that is to ſay) Votes for Governour by themſelves, Aſſiſtants by themſelves, &c. And that the Deputies alſo take a Liſt of the names of ſuch as ſent Votes by them, that they may anſwer for them when they are called:

Penalty of neglect.

And that whoſoever of the Freemen, do not appear at Election, in Perſon, or by Proxy, he ſhall be for ſuch neglect, amerced to the Treaſury *ten ſhillings*.

Freemens power

5. *Forasmuch as the Freemen of this Corporation, have been declared to be the Aſſociates of this Government, and have the priviledge and power of choſing Officers, and by themſelves or their Repreſentatives, together with the Magiſtrates, of making and Repealing Laws, and management of the greateſt concernes of this Common-Weal.*

Who to be admitted

It is therefore Enacted by this Court and the Authority thereof, That none ſhall be admitted a Freeman of this Corporation, but ſuch as are *one and twenty years of age* at the leaſt, and have the teſtimony of their neighbours, that they are of ſober and peaceable converſation, Orthodox in the Fundamentals of Religion, and ſuch as have alſo *twenty pounds* rateable Eſtate at the leaſt in the Government. And that the Court may be well informed, that ſuch as are to to be admitted Freemen are ſo qualified; they ſhall ſtand propounded a compleat year, before they take up their Freedome, unleſs it be ſome perſon that is generally known and approved, or of whom the Court may make preſent improvement: And all Freemen to be taken in at Election Courts only and in open Court.

How and when

6. And foraſmuch as ſome corrupt Members may creep into the beſt and pureſt Societies;

In what caſe to be Diſfranchized

If any Freeman of this Corporation, ſhall be diſcovered to be notoricuſly vitious or ſcandalous, as common Lyars, Drunkards, Swearers, Apoſtates from the Fundamentals of Religion, or the like, or doth manifeſtly appear to be diſaffected to this Government; upon legal and due conviction of all or any of theſe, it ſhall be in the power of the General Court to Disfranchize him if they ſee cauſe from the priviledge of a Freeman.

And becauſe it greatly concerns the good and Weal of the whole Colony, to have a good choice made in the ſeveral Towns, of Select men, Deputies, Grand-jury-men, Conſtables, &c. and it appears that ſome do abuſe their liberty in Voting for choice of ſuch Officers, and are either factious or ſlite in their choice;

Who to Vote in Town-meetings for choice of Officers

It is therefore Enacted, That henceforth none ſhall have power to Vote on ſuch accounts in Town-meetings, but ſuch as are Freemen of the Corporation, or Free-holders of *twenty pounds* Rateable Eſtate, Orthodox in the Fundamentals of Religion, of good Converſation, and having taken the Oath of Fidelity.

Deputies to be annually elected

7. It is Enacted, That each Townſhip in this Juriſdiction, do Annually Elect and Choſe one or two fit men out of the Freemen, for their Deputies, with full power as aforeſaid, to attend the ſervice of the General Court, and the Adjournments thereof, or for the whole year, in pain of *forty ſhillings*, and the reſpective Conſtable, to return the Names of thoſe ſo choſen to the Court, in pain of *twenty ſhillings* to the Colonies uſe.

and their Names preſented to the Court per Conſtable

In what caſe to be refuſed with the reaſon returned to the Town

8. And if the Court to whom ſuch Deputy or Deputies be preſented, do upon the taking notice of their Members, adjudge any of them to be unfit for ſuch a truſt, then ſhall the Court return them with the reaſon thereof, unto the Town from whence they were ſent, that they may make choice of fitter perſons to ſend in their ſtead, as the opportunity will permit.

No act to paſs without conſent and vote of the major part

9. It is Ordered, &c. That nothing ſhall be concluded, and paſs as an Act of the General Court, but by the conſent and vote of the major part of the Court.

Who and when to have a caſting Vote

And the Governour, or in his abſence the Deputy Governour, ſhall have a caſting Vote, whenſoever there ſhall be an Equi-vote, either in the General Court, or Court of Aſſiſtants.

10. That

10. That in case either of the Commissioners chosen, shall by Gods providence be disinabled to attend the service thereof, then the next in Nomination for that choice shall attend that service in his stead.

The next Commissioner in nomination to attend in case

11. And it is Ordered, That until the Court see cause for the Freemens annual Electing of a Deputy Governour, the eldest Assistant shall supply that place in the Governours necessary or unavoidable absence.

The eldest Assistant to be Deputy Governour

Secondly, Courts of Assistants or Magistrates.

For the better Administration of Justice;

It is Ordered and Enacted by this Court and the Authority thereof; That there be and shall be a Court called the Court of Assistants or Magistrates. wherein all the Magistrates for this Jurisdiction shall meet and sit at *Plimouth*, at least three times a year, namely the *first tuesday in March*, the *first tuesday in July*, and the *last tuesday in October*, to hear, examine, and determine all Capital, Criminal, and Civil causes according to Law, and to receive and try all Appeals duely brought unto them from any Inferiour Court, or Sentence passed: And to call all the Inhabitants, Freemen, Planters, or others to accompt, for the breach of any Laws or Orders established, or for other misdemeanours, and to Censure them according to the quality of the offence and Law in such case provided, and to Summons Juries of Inquests, and Tryals out of the Town-ships in this Jurisdiction, and to make and constitute Clerks or other needful Officers, &c. in which meetings of the Magistrates, less then four Magistrates shall not be accounted a Court.

Courts of Assist.

where and when to sit

their power

2. *And that Justice be not deferred, nor the Country needlesly charged;*

It shall be lawful for the Governour or in his absence the Deputy Governour to call a Court of Assistants, for the Tryal of any Malefactor in Capital causes, or upon any other weighty occasion, as he shall see cause.

Liberty to call a Court of Assist. on special occasion

3. That it shall be lawful for the Governour, Deputy Governour, or any two Magistrates, to call a special Court at the Request of any Stranger, or Forreigner for Tryal, in a case of considerable value; provided such Stranger put in Security to defray the charge thereof, at which Court there shall not be less then three Magistrates.

Liberty to call a special Court at request of strangers

4. And that it shall be lawful for any Stranger, upon Legal Summons, to enter any Action in any of these Courts, against any person that is not an Inhabitant amongst us.

Liberty for one stranger to sue another

5. That the Bench shall have power to determine all such matters of Equity, as cannot be Relieved by the Common Law, as the forfeiture of an Obligation, breach of Covenants without great damage or the like matters of apparent Equity.

The Bench has power to determine matters of Equity

Laws without penalty are liable to reasonable penalties by the Court

6. It is also Ordered; That in all Laws which are or shall be made, where no fine or penalty is expressed and limited, all Transgressors are and shall be liable to such reasonable penalties or punishments as the Court of Magistrates duely weighing the nature of the offence, with the circumstances, shall judge meet.

Thirdly, The Court of Select-men.

For Prevention of unnecessary charge and travail to the Country, and incumbrance to other Courts, by small causes;

Select mens Election, Approbation and Power

It is Ordered, &c. That three or five fit men be Annually chosen by papers, out of the Freemen in each Town-ship in this Government, and presented at Election Court, who being approved by the Magistrates as Select-men and sworn, to the faithful discharge of their trust; shall have power to hear and determine, by their best discretion, according to the Law here established, all causes wherein either party is an Inhabitant of their Town, and the Debt, Trespass or Damage, doth not exceed *forty shillings*; and have hereby power to send for Parties and Witnesses by Summons, which may be served by the party, or Attachments directed to the Constable, as the case may require; as also to administer Oathes to Witnesses, and also to grant Execution for the Leavying of such Debts, or Damages for the use of the person damnified.

Process of Action

2. And if the party being legally Summoned, do not appear to Answer, the Plaintiffe shall notwithstanding have his Action proceed, &c. as is in that case for other Courts before provided: see tit. *Actions.*

But where the party shall be Attached, and refuse to give Bond for his appearance, or being Sentenced, refuse to give satisfaction, and no Goods appear in the same Town where the party dwells, the Select men may then charge the Constable with the party, to carry him before a Magistrate, to be forthwith proceeded with according to Law, and not by the Select men, to be committed to Prison in any case.

In what case two of them may issue

Their Fees

3. And where any of the three Select men may be party in the case, or absent, by an unavoidable act of Gods providence, then the other two are impowred to issue the case, or the other Select men where there is no Magistrate; and the Select men to have *three shillings* of the Plaintiffe for every case they or any two of them where there is but three agree to give verdict upon.

And that henceforth no Debt or Action proper to their cognizance be received (except in cases of Defamation or Battery) into any other Court but by Appeal.

Liberty of Appeal

Liberty of Appeal to the next Court of Assistants, being hereby granted to the grieved party, either before or after one review of his case; provided he tender his Appeal, and put in Security before the Select men or one of them, to prosecute his Appeal to effect, and to satisfie all damages before Execution is granted, which shall not be till *twelve hours* after Judgement.

4. It is further Ordered, That all Appeals with the Security as aforesaid

ſaid, ſhall be Recorded at the charge of the party Appealing, and certified unto the Court to which they are made, together with all the Teſtimonies according to which they gave in their Verdict, and the Court Appealed to, ſhall judge according to thoſe Teſtimonies and no other; and if they finde matter of Fact and Judgement according to Law with the other Court, they ſhall not revoke the Sentence or Judgement, but abate or increaſe damages as ſhall be judged right. With the proceſs thereof

And that any of the Magiſtrates or Select men where no Magiſtrate is, at the Appealants requeſt, grant a Precept for the Defendants appearance at the Court Appealed to; And if ſuch Appealant do not proſecute his Appeal to effect according to Law, ſhall beſides his Bond to the party forfeit *forty ſhillings* fine to the Country for ſuch neglect.

It is further Ordered, That the Select men ſhall alſo hear and determine any Difference, Debt or Damage whatſoever ariſing between any of the Engliſh in their Town, and any of the Indians, except matters of a Capital or Criminal Nature, and title of Land: Liberty alſo being granted to any of them grieved at the Sentence there paſſed, to Appeal to the next Court of Aſſiſtants, and to be directed therein by the Select men. Select mens power in reference to Indians

CHAP. VI.

Preſentments, Inditements, Jurors and Juries.

IT is Ordered by this Court, That no perſon ſhall be Indited, Preſented or Informed againſt to any Court or Magiſtrate within this Juriſdiction for the breach of any penal Law, or any other miſdemeanour, the forfeiture whereof belongs to the Country, unleſs the ſaid Inditement or Information, &c. be made and exhibited within one year after the offence be committed or elſe to be void and of none effect; provided alwayes this Law ſhall not extend to any Capital Offences, or any Crimes that may concern loſs of Member or Baniſhment, or to any Treaſonable Plottings or Conſpiracies againſt this Government, or to any Felonies above *twenty ſhillings*. Preſentments and Complaints to be made within a year

Nor ſhall it hinder any perſons grieved for any wrong done to him, his Wife, Children or Servants, or Eſtate, real or perſonal, but that every ſuch perſon ſhall have ſuch remedies as formerly he might or ought to have.

2. It is Ordered; That if any perſon ſhall be Indited of, or legally Charged with any Capital Crime (who is not then in durance) and ſhall withdraw or refuſe to render his perſon to ſome Magiſtrate or Officer in this Juriſdiction, within one month after three Proclamations made publickly in the Town where he did formerly uſually abide, their being a full Moneth betwixt Proclamation and Proclamation; his Lands and Goods ſhall be ſeized to the uſe of the Juriſdiction (and Ordered with due reſpect Perſons Indited of Capital crime muſt not withdraw but ſurrender themſelves

to his family, as the Court of Magiſtrates ſhall judge meet) till he make his lawful appearance; and ſuch withdrawing of himſelf ſhall be and ſtand in ſtead of one Witneſs to prove the Crime charged, unleſs he can make it appear to the Court, that he was neceſſarily hindred.

JURORS and JURIES.

Grand jury to be Impannelled and Choſen

IT is Enacted by the Court and the Authority thereof; That a Grand Inqueſt of able and diſcreet men be Impannelled by the Governour and Aſſiſtants, which are to be choſen out of the ſeveral Townſhips of this Government, as by Warrant ſhall be directed to them, to ſerve His Majeſty by inquiring into, and preſenting the breach of ſuch wholeſome Laws and Ordinances as are or ſhall be here eſtabliſhed, and all ſuch Miſdemeanours as manifeſtly tend to the hurt and detriment of Religion, Civility, Peace, Society or Neighbourhood they ſhall know or be informed of, upon the Teſtimony of any one or more Witneſſes upon Oath, to be committed by any perſon or perſons within this Juriſdiction, and to do any other ſervice which ſhall on His Majeſties behalf be required of them at ſuch Courts and times as ſhall by Warrant from the Governour or Magiſtrates be required of them: Provided no perſon whatſoever, ſhall be bound to Inform, Preſent, or Reveal any private Crime or Offence, wherein there is no peril or danger to this Colony, or any Member thereof, when any neceſſary tye of Conſcience binds him to ſecreſie; unleſs it be in Teſtimonies lawfully required of them.

Their duty

Fees

And every Grand-juror ſhall be allowed by their reſpective Towns *two ſhillings ſixpence* a *day*, for their time and charge whileſt they attend any of the ſeveral Courts, except the Courts of Election whereat they are preſented to be ſworn.

Penalty for not ſerving.

And that ſuch as refuſe to ſerve on the Grand Inqueſt, being orderly Choſen, ſhall be fined *forty ſhillings* to the Colonies uſe, and ſuch as ſhall abſent themſelves from attending their ſervice at any of the Courts, they ſhall be warned unto, ſhall be fined *ten ſhillings* unleſs they give ſufficient reaſon for ſuch their abſence.

Petty Jurors impannelled and ſworn to finde according to their evidence

2. That Petty Juries be Summoned by the Governour, or ſome other of the Magiſtrates at ſuch Courts as there may be occaſion, and be impannelled and ſworn truely to try between party and party, and ſhall finde the matter of fact with the damages and coſt, according to their evidence, or truely to try between our Soveraign Lord the King, and any Priſoner brought to the Bar, and the Judges ſhall declare the Sentence, or direct the Jury to finde according to Law; and in all caſes wherein the Law is obſcure, ſo as the Jury cannot be ſatisfied therein, they have liberty to preſent a ſpecial Verdict, *viz.* If the Law be ſo in ſuch a point we finde for the Plaintiffe, but if the Law be otherwiſe, we finde for the Defendant, in which caſe the determination doth properly belong to the Court. And all Jurors ſhall have liberty in matter of fact, if they cannot finde the main iſſue, yet to finde and preſent in their Verdict ſo much as they can; the Foremans allowance being *one ſhilling*, and *ſixpence* a piece to the reſt of the Jurors for every Action that ſtands entred after they are ſworn.

Liberty to give a ſpecial Verdict

CHAP.

CHAP. VII.

CONSTABLES.

Constables Annually choſen

IT is Enacted by the Court, &c. That in every Town in this Government, ſhall be Annually choſen one or more fit men for Conſtables; whoſe Names ſhall by the Deputies of the Towns, be returned to the Election Court, and ſhall there, or within a week after the Court preſent himſelf to a Magiſtrate to take Oath.

and to take oath

Penalty for refuſing to ſerve

2. That whoſoever being choſen to the office of a Conſtable, doth refuſe to ſerve therein, or will not take the Oath appertaining to that Office, he ſhall be amerced the ſum of *four pounds*, the one half to the Colony, and the other half to the publick uſe of the Town where he dwells; and the Town forthwith to chuſe another.

3. *And becauſe a Conſtables place, though a place of truſt, is alſo burthenſome*;

None to be made conſtable twice in 7 years

And to be freed from Training &c Military watches

It is Ordered; That if any man have borne the Office of a Conſtable, he ſhall not be compelled to ſerve in the ſame Office, in the ſame Town, nor any other in this Government to which he may remove, in *ſeaven years* after; and that all Conſtables ſhall be freed from Training, and Military Watches.

Conſtable ſhall make his deputy

4. That if any Conſtable within this Government, have occaſion to go out of the Town-ſhip wherein he is Conſtable, for ſome time, he ſhall have power to depute, and by due ſatisfaction procure another meet perſon in his ſtead, as his Deputy, who ſhall execute the Conſtables place during his abſence, as effectually as he himſelf might do; provided that the perſon whom he ſo deputeth, be not one that hath ſerved in the place within *two years* before, except he be willing; And in caſe any Conſtable ſhall neglect to provide and depute one in his ſtead, as aforeſaid, to forfeit *ten ſhillings* for every default.

To gather Rates and fines

Serve Summons

5. That the gathering of Country Rates, Town Rates, Miniſters Rates, alſo the leavying of fines in the reſpective Towns, and ſerving of Executions, by Warrant from any Lawful Authority here eſtabliſhed, ſhall belong unto the Office of a Conſtable, together with the ſerving of ſuch other Warrants and Summons, as ſhall be by the ſaid Authority directed to him; and ſhall have *twelve pence* for ſerving a Summons, *two ſhillings ſixpence* for ſerving an Attachment, in hand to be paid by the Plaintiffe, and returned again unto him by the Conſtable in caſe he fail in ſerving thereof.

Marſhals and Conſtables Directions.

6. *THat Juſtice may be the better Executed, the Juriſdictions occaſions carried on, and that the Marſhal and other Officers may know how to demean themſelves in their places*;

To demand dues

It is Ordered; That in caſe of Rates, and Fines to be leavied, and in caſe of Debts and Executions in Civil Actions, the Officer ſhall firſt demand the Sum due of the party or at his houſe or place of uſual abode, but upon refuſal or non-payment, he ſhall have power to leavie the ſame upon any Goods liable to ſuch Leavie or Execution whereſoever it ſhall be; and if he be to take the perſon he may do the like, if upon demand he ſhall refuſe to render himſelf: And whatſoever charges the Officer in any ſuch caſe ſhall neceſſarily be put unto, in leavying or tranſporting the Goods or Matters leavied unto the Treaſurer or party concerned, who is to receive the ſame, he ſhall leavie the ſaid Charges alſo, as he doth the Debt, Aſſeſsment or Fine; Provided it ſhall not be lawful for any ſuch Officer to leavie any mans neceſſary Bedding, Apparel, Tools, Arms, or ſuch Implements of Houſe-hold-ſtuffe as ſerve for his neceſſity, without expreſs direction from the Court or ſome one of the Magiſtrates: But in ſuch caſe he ſhall leavie his Land or Perſon according to Law; and in no caſe ſhall the Officer be put to ſeek out any mans Eſtate further then his place of abode, but if the party will not, or doth not diſcover his Goods, or Lands to a ſufficient value, the Officer may take his perſon, who ſhall be kept in durance at his own charge till he make diſcovery of his Eſtate to ſatisfie the ſame, if he be ſolvent, but if he be inſolvent then at the Creditors charge.

and leavy neceſſary charge

Goods exempt from execution.

Officer doing wrong to make ſatisfaction

And it is alſo Ordered; That if any Officer ſhall do injury to any by colour of his Office, in theſe or any other caſes, he ſhall be liable to make reſtitution, upon complaint by Action or Information.

And it is further Ordered, That the Conſtable or other Officer, that ſhall not faithfully Collect ſuch Rates, Aſſeſsments, Fines, or Debts and Dues, as ſhall from time to time be committed to him, or required of him by order of any lawful Authority here eſtabliſhed, or that ſhall not attend his Order, to pay or deliver the ſame ſo Collected unto the Treaſurer, or any other perſon or perſons concerned therein, he ſhall be liable to make good all the damages that comes thereby unto the party or parties wronged, and to ſuffer ſuch puniſhment by fine to the Country according to the treſpaſs.

Conſtables to whip

7. It is Ordered by this Court and Authority thereof; That the Conſtable ſhall whip or puniſh any to be puniſhed by Order of Authority, (where there is not another Officer appointed to do it) in their own Towns, unleſs they can get another to do it.

To receive and convey offenders

8. It is further Ordered; That any and every perſon tendred to any Conſtable of this Juriſdiction, by any Conſtable or other Officer of our own, or belonging to any forreign Juriſdiction in this Country or by Warrant from any ſuch Authority, ſhall be preſently received and conveyed forthwith from Conſtable to Conſtable till they be brought to the place

place to which they are ſent, or before ſome Magiſtrate of this Juriſdiction, who ſhall diſpoſe of them as the juſtice of the cauſe ſhall require; And all Hues and cries ſhall be duely received and diligently purſued to full effect: and where no Magiſtrate is near, every Conſtable ſhall have full power to make, ſigne, and put forth Purſuits or Hues and cries after Murtherers, Man-ſlayers, Peace-breakers, Theeves, Robbers, Burglarers, and other Capital Offenders; as alſo to Apprehend without Warrant, ſuch as are overtaken with Drink, Swearing, Sabbath-breaking, Vagrant Perſons, Night-walkers, provided they be taken in the manner, either by the ſight of the Conſtable, or by preſent information by others: As alſo to make ſearch for all ſuch perſons, either on the Sabbath day or other, when there ſhall be occaſion, in all Houſes Licenſed to ſell either Beer or Wine, or in any other ſuſpected or diſordered places, and thoſe to Apprehend and keep in ſafe Cuſtody till opportunity ſerve to bring them before one of the next Magiſtrates to further Examination, provided, when any Conſtable is imployed by any of the Magiſtrates for Apprehending of any perſon, he ſhall not do it without Warrant in Writeing: And if any perſon ſhall refuſe to Aſſiſt any Conſtable or Marſhal, in the Execution of his Office, in any of the things aforementioned, or otherwiſe as occaſion ſhall require, being by him required thereto, they ſhall pay for neglect thereof *ten ſhillings* to the uſe of the Country, to be leavied by Warrant from any Magiſtrate, before whom any ſuch Offender ſhall be brought; and if it appear by Good Teſtimony, that any ſhall wilfully, obſtinately, and contemptuouſly refuſe or neglect to Aſſiſt any Conſtable, as is before expreſſed, he ſhall pay to the uſe of the Country *forty ſhillings*.

To purſue Hues and cries

and in caſe to put them forth

to apprehend offenders

All to aſſiſt the Conſtab or Marſhal in pain of 10. s.

Wilful neglect 40. s.

And that no man may plead Ignorance for ſuch neglect or refuſal;

It is Ordered, That every Conſtable ſhall have a Black Staffe tipped with Braſſe, as a Badge of his Office, which as he hath opportunity, he ſhall take with him when he goeth to diſcharge any part of his Office, yet notwithſtanding, the want of his Staffe ſhall not hinder him from Executing his Office in any kinde, if occaſionally he be without it, nor exempt any from aſſiſting him therein, that may know him to be the Conſtable.

Conſtables Staffe

And if any Magiſtrate, Conſtable, or other, upon urgent occaſion, ſhall refuſe to do their beſt endeavour, in raiſing and proſecuting Hues and cries by foot, and if need be by Horſe, after ſuch as have committed Capital Crimes, they ſhall forfeit for every ſuch offence to the uſe aforeſaid *forty ſhillings*.

Not raiſing Hues and cries in Capital caſes fined

9. It is Ordered, &c. That the Conſtables in their reſpective Townſhips, ſhall warn Town-meetings of their Inhabitants, as they ſhall receive Order from any of the Magiſtrates, Select-men or Deputies of their Towns upon any due occaſion to them ſeeming for ſuch Town-meetings, in pain of *twenty ſhillings* for his neglect.

Conſtab. to warn Town-meetings

It is Ordered that *three* or *five* men be choſen in each Town-ſhip of this Juriſdiction, by papers, to make Aſſeſsments or Rates upon all the Inhabitants of their Town, as there ſhall be need or occaſion, for defraying of the publick charge of the Country, or the particular charges ariſing in their Town-ſhips according to Order of Court in ſuch caſe provided, or for leavying any fine laid upon the Town, and if the Inhabitants of the Town do not come together upon the Conſtables warning, and choſe Raters, the Town ſhall forfeit *five pounds* to the Countries uſe.

The Towns to choſe Raters

In pain of 5 li.

The Raters neglect and penalty

And if the Raters ſo Elected, do not make ſuch Rates committed and ordered to them to be made, and tranſcribe and deliver or cauſe to be delivered a fair copy thereof to their Conſtable, within *fourteen dayes* or ſooner if the occaſion ſhall require, ſhall forfeit *twenty ſhillings* a piece, and if their neglect be mingled with Contempt, *forty ſhillings* a piece to the Country.

In caſe the Court to chooſe Raters

And it is further Ordered, That the Court or any two of the Magiſtrates may, as need ſhall require, upon defect of any Towns chooſing Raters, or the Raters neglect to make ſuch Rates, as by Order of Court are committed to them, make choice of three men to make ſuch Rate.

Fees for diſtreſs

10 It is alſo Ordered &c. That the Conſtable is impowred to make diſtreſs on the Goods of ſuch as neglect to pay their part of any ſuch Rates as aforeſaid, in unto him or his Order in the Town ſhip, and to have one ſhilling for ſuch diſtreſs. And if he cannot get in all the Rates, Aſſeſsments, committed to him during the time of his Office, he ſhall notwithſtanding the expiration of his Office, have power with the Aſſiſtance of the next Conſtable to leavie by diſtreſs all ſuch Rates and leavies.

Liberty to gather Rates after his yerr

Penalty for neglect collecting of Rates

11. And in caſe the Conſtable neglect together in any of the ſaid Rates, within *forty dayes* next after he hath the ſaid Rate, or ſooner upon ſpecial occaſion, he ſhall be liable to pay it himſelf, and to be Recovered by Suit or diſtraint on his goods, eſpecially for ſuch Rates as are not gathered and brought in to the Treaſurers Order, according to the time mentioned in his Warrant; which if the Treaſurer neglect, he ſhall be anſwerable to the Country for the ſame; And if the Conſtable be not able to make payment, It ſhall be Lawfull for the Treaſurer to diſtreyne for all Arrearages of Rates and Leavyes any man or men of that Town where the Conſtables are unable, and that man or men upon requeſt to the Court, ſhall have Order to collect the ſame again equally of the Town with his juſt damage for the ſame.

Rules for making rates

12. *And for the more equal and ready way of raiſing means for defraying neceſſary and publick charges of all ſorts*;

It is Ordered that all Rates and Aſſeſsments, ſhall be equally proportioned by the Raters, according to each mans different perſonal Abilities, Faculties and Eſtate, both perſonal and real, being or reputed to be the Eſtate of each perſon in the ſame Town, or otherwiſe under their Cuſtody or managing, according to the juſt valuation as near as may be, *viz.* Lands improved by Plough or Hough, or by cutting and taking of Timber from it, or Renting it, and all Meadow Lands, and Cattel of all ſorts, Mills, Ships, Barques, Ketches, and other Veſſels, Merchantable Goods and other known Eſtate whatſoever, (Houſhold-ſtuffe and Goods of that kinde, provided and kept for that uſe and not for Trade, onely excepted.)

And for incouraging of Traffick;

It is Ordered, That Barques, Ketches and other Veſſels, with what Stock is imployed in Traffick at home and abroad, ſhall be Rated but at the one half of their value.

13. It is Enacted by the Court; That the Select men and the Conſtable or his Deputy in each reſpective Town in this Government, ſhall diligently

diligently look after ſuch as ſleep or play about the Meeting houſe, in times of the publick Worſhip of God on the Lords-day, and take notice of their Names, and return ſuch of them to the Court, who do not after warning given to them reform; as alſo ſuch as practiſe unneceſſary violent Riding on the Lords day.

Conſtable and Select men to look after ſuch as ſleep or play about the meeting houſe on the Lords-day

CHAP. VIII.

Miniſters Maintenance.

WHereas this General Court taking into their ſerious conſideration, the great defect that either is or would be in any Town-ſhips of this juriſdiction, where there is wanting an Able, Godly, Teaching Miniſtry, and the great prejudice to the ſouls of many like to enſue, and being deſirous according to our duties, that ſuch defects ſhould not be, for want of due incouragement to ſuch as either are or ſhall be imployed in ſo good a work of the Lord; And in conſideration of the ſeveral Town-ſhips granted by the Court were ſo accommodated, as that they might receive ſuch a number of families as might comfortably maintain the publick worſhip of God there; do therefore judge, that the whole, both Church and Town are mutually ingaged to ſupport the ſame;

And do therefore Order and Decree, That in whatſoever Town-ſhip there is or ſhall be an Able, Godly, Teaching Miniſtry, which is approved by this Government, that there three or four men be choſen by the Inhabitants, or in caſe of their neglect, by any three or more of the Magiſtrates, to make an equal and juſt Proportion or Rate upon the Inhabitants, according to their Eſtates and Abilities, to make ſuch convenient maintenance for his comfortable attendance on his work, as ſhall be agreed upon by the Church in each Town-ſhip where any is, with the concurrance of the reſt of the Inhabitants, if it may be had, or by the Magiſtrates aforeſaid, in caſe of their apparent neglect; And that diſtreſs be made by the Conſtable as in other juſt caſes, upon ſuch as refuſe or neglect to pay ſuch their due proportions: But in caſe any Town either by a free Contribution, or other good and honourable way, do effect the end aforementioned, this Law not to be binding to them.

And foraſmuch as it appeareth to be greatly inconvenient, that the Miniſters ſhould be troubled to gather in the Rates for their maintenance, and it may be an occaſion to prejudice ſome perſons againſt them or their Miniſtry;

It is Ordered, by this Court, That at *June* Court yearly, two meet perſons in each Town be appointed by the ſaid Court, unleſs the Towns have provided, and do preſent them, who ſhall take care of gathering in their Miniſters maintenance for that year, by inſiſting the people to their duty in that reſpect, demanding it when due, and if need be by procuring diſtraint upon the Eſtate of any that ſhall neglect or refuſe to pay their Rates or Proportions towards his ſupport; and in caſe any Miniſter make

ſcruple to receive what is ſo raiſed, it ſhall nevertheleſs be gathered as aboveſaid, and be diſpoſed as the Court ſhall Order or adviſe for the good of the place.

Whereas it hath been and is the pious care, and true intent of this Court, that all ſuch Plantations and Town-ſhips as are by them granted, ſhould maintain the publick Sabbath Worſhip of God, and the Preaching of the Word, and do to that end afford them ſuch proportions of Land as may accommodate ſuch a ſociety as may be able to maintain the ſame, and yet through the corruption or ſinful negligence of many, or moſt of the Inhabitants of ſome Plantations, they do or may content themſelves to live without the Miniſtry of the Word, to the great diſhonour of God, and danger of their Souls; and there being great reaſon to fear that many may be acted therein by worldly and covetous Principles;

It is therefore Enacted by this Court, &c. That in ſuch Plantations and Town-ſhips, where no Miniſter is reſiding, eſpecially if it appear that the generallity of the Inhabitants are remiſs in the obtaining one; The General Court may and ſhall henceforth yearly impoſe a certain ſum to be raiſed by Rate, upon the Inhabitants of ſuch Plantations or Town ſhips, which ſhall be kept as a Stock for building a Meeting houſe, and for incouragement of a Miniſter to labour amongſt them, or other ſuch pious uſe as the Court may improve it in for their good.

No publick meeting to be ſet up without approbation.

2. And it is Enacted by this Court and Authority thereof, That no publick meeting be ſet up within this Government but ſuch as the Court ſhall approve of; wherein they ſhall have ſpecial care, that they allow ſuch only as are Orthodox in the Fundamentals of Religion, and in ſuch places as it may not be deſtructive, nor too much prejudicial to any already approved.

Education of Children.

Forasmuch as the good Education of Children and Youth, is of ſingular uſe and benefit to any Common-wealth; and whereas many Parents and Maſters either through an over-reſpect to their own occaſions and buſineſs, or not duely conſidering the good of their Children and Servants, have too much neglected their duty in their Education, whileſt they are young and capable of Learning;

It is Ordered, That the Deputies and Select men of every Town, ſhall have a vigilant eye from time to time over their Brethren and Neighbours, to ſee that all Parents and Maſters do duely endeavour, by themſelves or others, to teach their Children and Servants as they grow capable, ſo much learning as through the bleſſing of God they may attain, at leaſt to be able duely to read the Scriptures, and other good profitable Books printed in the Engliſh Tongue (being their Native Language) and the knowledge of the Capital Laws, and in ſome competent meaſure to underſtand the main Grounds and Principles of Chriſtian Religion, neceſſary to Salvation, by cauſing them to learn ſome ſhort Orthodox Catechiſme without Book, or otherwiſe inſtructing them as they may be able to give a due anſwer to ſuch plain and ordinary Queſtions, as may by them or others be

be propounded to them concerning the ſame: And further that all Parents and Maſters do breed and bring up their Children and Apprentiſes in ſome honeſt lawful calling, labour or imployment, that may be profitable for themſelves, or the Country; and if after warning and admonition given by any of the Deputies, or Select men, unto ſuch Parents or Maſters, they ſhall ſtill remain negligent in their duty, in any the particulars aforementioned, whereby Children or Servants may be in danger to grow Barbarous, Rude and Stubborn, and ſo prove Peſts inſtead of Bleſſings to the Country; That then a fine of *ten ſhillings* ſhall be leavied on the Goods of ſuch negligent Parent or Maſter, to the Towns uſe, except extream poverty call for mitigation of the ſaid fine.

And if in three Months after that, there be no due care taken and continued, for the Education of ſuch Children and Apprentiſes as aforeſaid, then a fine of *twenty ſhillings* to be leavied on ſuch Delinquents Goods, to the Towns uſe, except as aforeſaid.

And Laſtly, if in three Months after that, there be no due Reformation of the ſaid neglect, then the ſaid Select men, with the help of two Magiſtrates, ſhall take ſuch Children or Servants from them, and place them with ſome Maſters for years, (boyes till they come to *twenty one*, and Girls *eighteen years of age*) which will more ſtrictly educate and govern them according to the rules of this Order.

2. *For maintaining a Free School*, vide The profits of Fiſhing at Cape Cod. *Chap. 11. Numb. 6.*

Miſpending of Time.

IT is Enacted by this Court, &c. That no Perſon, Houſe-holder or other, ſhall ſpend his time idly and unprofitably, under pain of ſuch puniſhment as the Court or Aſſiſtants ſhall think meet to inflict: And the Select Men of the ſeveral Towns are hereby required to give in a Liſt of the Names of ſuch as miſpend their time, whether Houſe-holders or others; and of all ſingle perſons that live from under Family Government, or will not be Governed by their Parents or Maſters where they live, that ſo the Court may proceed with them as the caſe may require.

The Select men to inform the Court of them that lives idely

Will not be Governed

Marriages, Births and Burials, to be Regiſtred.

IT is alſo Enacted, &c. That the Town Clerk in every Town in this Government, ſhall keep a Regiſter of the day and year of the Marriage, Birth and Burial of every Man, Woman and Childe, in that Townſhip, and ſhall have for the Regiſtring *three pence* a piece; And if any Father, or Mother, or perſon next in Relation, do neglect to give an account to the Town Clerk, of the Name, and Birth day of their Childe within one Month after it is born, he or they ſhall be amerced for ſuch neglect *three ſhillings*, one half to the Colony, and the other half to the Town Clerk that complaineth of it:

Regiſter to be kept of all marriages, births & burials

And whoſoever ſhall neglect to give in their Names, and the day of

Exhibited at March Court yearly

their Marriage to the ſaid Town Clerk, within one Month after they were Married, ſhall forfeit for their neglect *three ſhillings* as aboveſaid: in like manner ſhall any Head of a Family, that neglects to give an account of any that are Buried out of their Family within a Month. And the Town Clerk or Regiſter keeper of every Town, ſhall exhibit a true and perfect copy unto *March Court* Annually, of all the Marriages, Births and Burials of the year paſt: And laſtly, That the Town Clerk, ſhall publiſh all Contracts of Marriages in the Town, and ſhall have *twelve pence* as his Fee, for every ſuch Orderly Publication.

Town Clerk to publiſh Marriages

2. *And for prevention of unlawful Marriages*;

How to be publiſhed

It is Ordered, That no perſon ſhall be joyned in Marriage, before the intention of the parties preceeding therein hath been publiſhed three times at ſome publick meeting, in the Towns where the parties or either of them do ordinarily reſide, or by ſetting up in Writeing, upon ſome Poſt of their Meeting houſe door in publick view, there to ſtand as it may be eaſily read, by the ſpace of *fourteen dayes*.

3. That none ſhall be allowed to Marry that are under the Covert of Parents, Guardians, Maſters, or Overſeers, without their conſent and approbation.

None ſhall inveagle or ſteal the Affections of any maid under Covert without conſent of &c.

And Whoſoever ſhall inveagle or endeavour to ſteal the Affections of any mans Daughter, Pupil or Maid-ſervant without his conſent or leave, he ſhall be puniſhed by fine, ſo it extend not *five pounds*, or by Corporal puniſhment at diſcretion of the Bench and according to the nature of the Offence. But if a meet Marriage be orderly propoſed, and any Maſter or Guardian, out of any ſiniſtre end, or covetous deſire, will not upon reaſonable teams ſuffer it to be; it ſhall be in the power of the two next Magiſtrates, upon complaint, to hear and determine the caſe, as they judge equal between both parties.

4. *And as the Ordinance of Marriage is honourable amongſt all, ſo ſhould it be accordingly ſolemnized*;

Who may ſolemnize Marriage

It is therefore Ordered, &c. That no perſon in this Juriſdiction, ſhall joyn any Perſons together in Marriage but the Magiſtrate, or ſuch other as the Court ſhall Authorize in ſuch place where no Magiſtrate is near, nor ſhall any joyn themſelves in Marriage, but before ſome Magiſtrate, or perſon Authorized as aforeſaid; nor ſhall any Magiſtrate, or other perſon to be Authorized, joyn or ſuffer any perſons to joyn together in Marriage in their preſence, before ſuch perſons Publication according to Law.

Not without publication

5. And that no man ſhall ſtrike his Wife or any Woman her Huſband, on penalty of ſuch fine, not exceeding *ten pounds* for one offence, or ſuch ſuitable Corporal Puniſhment as the Court ſhall determine.

No man to ſtrike his wife or woman her husband

CHAP.

CHAP. IX.

Town-Affaires.

IT is Enacted, &c. That every Town-ſhip in this Government, ſhall have liberty and power to meet together, and make ſuch Town Orders in prudential matters as they ſhall finde needful; and alſo to make ſuch Rates and Aſſeſsments as they have occaſion for; Provided, that no Town Order do infringe or be repugnant unto any Order of this Court.

2. That none be allowed to be Houſe-keepers, or build any Cottage or dwelling Houſe, until they have allowance of the Governour, ſome Magiſtrate, or the Select men of that Town; And that a ſpeceal care be taken, that no ſingle perſon that is of evil converſation, or hath not Arms to ſerve the Country, be ſuffered to keep ſuch houſe or live alone; And if upon due warning, ſuch perſon do not put himſelf into ſome well Governed Family, it ſhall be in the power of the next Magiſtrate, or the Select men of the Town where he lives, to put him to ſervice.

Who ſhall be allowed to be Houſe-keepers

3. That if any perſon, whether Maſter of any Veſſel or other, do bring in any into any Town or Plantation in this Government, without the approbation of the ſaid Town or Towns-men, or do entertain or receive any that come in, and are not ſo allowed, but are at the time of their comeing, or within a Month after excepted againſt by the Conſtable or ſome one of the Select men of the Town, he or they that ſo bring in, or entertain any ſuch perſons likely to be burthenſome or chargeable, ſhall either carry them away again, ſo as to free the Town of them, or give Security to free the ſaid Town from charge concerning him, whileſt he is there reſident.

He that brings in any like to be a charge ſhall ſecure the Town

But if any man bring in an Apprentiſe, or Covenant Servant for years, that is at preſent ſound and well, Bonds ſhall not be required of ſuch Maſter, but if his Servant fall ſick or lame, he ſhall be maintained by his Maſters particular charge, during the date of his Indentures or Covenant, but ſhall afterwards be relieved by the Town.

But if a Prentiſe only during his time

4. That every Town in this Government ſhall maintain their own poor; And if any that have relief from any Town, do not imploy their Children as they ought towards the getting of a livelihood; or if there be any other Family that cannot or doth not provide competently for their Children, whereby they are expoſed to want and extremity; It ſhall be in the power of the Select men of each Town, to place out ſuch Children into good Families where they may be better brought up and provided for.

Poor mens children to be provided for

5. That if any perſon come to live in any Town in this Government, and be there received and entertained *three Months*, if by ſickneſs, lameneſs or the like, he comes to want relief, he ſhall be provided for by

He that hathbeen 3 months in a Town ſhall be their charge

that Town wherein he was ſo long entertained, and ſhall be reputed their proper charge, unleſs ſuch perſon have within the ſaid *three Months* been warned by the Conſtable, or ſome one or more of the Select men of that Town, not there to abide without leave firſt obtained of the Town, and certifie the ſame to the next Court of Aſſiſtants, who ſhall otherwiſe Order the perſon or charge ariſing about him, according to juſtice.

But ſuch as are ſent to Nurſe, School, &c. ſhall be relieved by place whence they come

6. But if any Children or elder perſons ſhall be ſent, or come from one Town to another, to be Nurſed, Schooled, or otherwiſe Educated, or to a Phyſitian or Chyrurgeon to be cured of any diſeaſe or wound, &c. if ſuch come to ſtand in need of Relief, they ſhall be Relieved and maintained by the Town-ſhip whence they came, and not by that Town ſhip where they are ſo Nurſed, Educated or at Cure; And in caſe they come or be ſent from any place out of this Colony; then if the Nurſe, Educator, Phyſition or Chyrurgeon do not take good ſecurity to diſcharge the Town wherein he lives from all coſt and charge, which ſhall or may befal concerning them, he that ſo received them ſhall be the Towns Security in their behalf.

None ſhall come in to inhabit without leave

7. That no perſon ſhall come into any Town or Peculiar in this Government to live and inhabit, without the leave and approbation of the Governour and two of the Aſſiſtants at the leaſt.

Penalty of refuſing the Oath of Fidelity

8. That whoſoever being reſident within this Government, ſhall refuſe to take the Oath of Fidelity, being orderly called thereunto, either by the Conſtable or any Magiſtrate; or the Select men where he dwels, he ſhall be amerſed to the Colonies uſe, in the ſum of five pounds, which if he cannot or will not pay he ſhall be puniſhed by Impriſonment or otherwiſe as the court ſhall order:

In every Town a Pound

9. It is ordered &c. That in every Town-ſhip of this Government there ſhall be a good ſufficient Pound from time to time, for Impounding of ſuch Horſes, Cattle or Swine, as treſpaſs any mans Corn field, or other incloſure. And whoſoever impounds any ſuch, ſhall give preſent notice to the owner if he be known, or otherwiſe they ſhall be cryed on the two next Lecture dayes or publick meetings, and if any of them eſcape out of the Pound, the owner if known ſhall pay all damages according to Law. And every perſon or perſons having notice given, or otherwiſe

Cattle to be Repleved or damage ſatisfied

left in Writeing at their houſe, or place of their uſual abode, of any of their Cattle impounded or otherwiſe reſtrained, ſhall forthwith give ſatisfaction to the party ſo wronged, or otherwiſe Replevie their Cattle, and proſecute the ſame according to Law, upon peril of ſuffering all the loſs and damage that ſhall come to their Cattle, by ſtanding in the Pound or other lawful place of reſtraint: But if the owners be not known or found, after ſuch Beaſt be cryed as aforeſaid, or inquiry made through the generality of the Town, with notice given to ſome of the Neighbours of the next Towns, for their occaſional inquiry likewiſe, that the owner may take notice, make his claim, and pay the damage and charge, and if yet no owner be found, then after due appriſement by indifferent men choſen by a Magiſtrate, or any two of the Select men of the place, and the ſame Recorded in the Town-book, ſale to be ſo far made that the charges be fully paid, and the remainder kept till the owner be known, and the reſt of the Cattle firſt mark't to diſtinguiſh them, to be again turned into Woods.

10. That

10. That if any ſhall Heard Cattle, on Lands that are another mans in propriety, though not incloſed, and will not forbear ſo to do, being warned by the owner or preſent poſſeſſor of ſuch Lands, it ſhall be accounted a Treſpaſs Action. Treſpaſs to Heard on any mans propriety

11. *Whereas complaint is made, that much Timber is fall'd and let lye and rot on the ground, and not timely improved by ſuch as falled it, to the great waſte of Timber, and ſpoile of the Commons;*
It is therefore Enacted by this Court, &c. That whoſoever ſhall fall any Timber on the Common, and doth not either Square or Rive it within *ſix Months* after it is falled, it ſhall be lawful for any other of that Town to improve it as they ſee meet. Timber falled and not improved forfeit

12. It is Ordered, &c. That every Town in this Government, ſhall have and keep Baited and well tended *two Woolf Traps* in fit ſeaſons, on penalty of *five pounds.* Woolf traps in every Town
That if any *Indian* do kill a Woolf and bring his Head to the Conſtable in whoſe Town-ſhip he killed it, he ſhall have a Coat of Duffils, or *fifteen ſhillings* in other pay, by the Town in whoſe Bounds it was killed; and if killed in this Juriſdiction, and not within any Town Bounds, then to be paid by the Treaſurer. Indians pay, for killing Woolves
And if any *Engliſh* kill any Wolves in any Town ſhip, and bring their Heads to the Conſtable, they ſhall be paid *thirty ſhillings* for every ſuch Woolf by the Town wherein they were killed. Engliſh paid by the Town

13. It is Ordered, &c. That every Town within this Government, ſhall have a Standard for Meaſures of Corn, made and ſealed by the General Standard at *Plimouth*, and that round meaſures only ſhall be allowed. Every Town to have a Standard for Corn

Miller and Mills.

IT is Ordered, &c. That all Millers (that is ſuch as are then engaged to the Tendance of a Griſt-mill) ſhall be free from Trainings and ordinary Watchings. Millers freefrom Training
That no Miller ſhall take above the *ſixteenth part* of the Corn he grindes for Toll, and that every Miller ſhall have alwayes ready in his Mill Weights and Schoals, provided at his own charge, to weigh Corn to and from the Mill if men deſire it. Toll, Weights & Schoals
That every Miller in this Government, ſhall keep in his Mill, two Toll Diſhes, ſo made and ſealed that one will hold a juſt Pottle upheaped, and the other a Quart upheaped,; and ſhall pay *ten ſhillings* a Month, for what time they uſe unſealed Toll Diſhes, if complained of. Toll Diſhes

Cask and Coopers.

THat all Cask made or to be made in this Government, for Beef, Pork, Fiſh, Oyle or any ſort of Liquor, be made according to the Aſſize and Gage of London; And that they be made of ſound and well Gage of Cask

Coopers Brand

ſeaſoned Timber; And that every Cooper do Brand-mark his Cask with a diſtinguiſhing Brand-mark, on penalty of the forfeiture of all Cask that are not ſo made and marked, the one half to the Informer, and the other half to the Colony.

Leather and Shoomakers.

Upon conſideration of the damage or injury which many ſuſtain by the ill Tanning of Leather, and by the Shoo-makers ill making it up into Shoes and Boots;

It is by this Court Ordered, That in every Plantation within this Juriſdiction, where either Tanner or Shoo-maker, is imployed in their Trades, one or two Sealers ſhall be choſen and appointed as the occaſions require, who ſhall be under Oath faithfully (according to their beſt ability) to diſcharge their truſt, and ſhall ſeal no Leather but ſuch as they judge ſufficiently Tanned, and fit to be wrought out, and ſold in Shoos and Boots. And that every ſuch Plantation ſhall have two Seals, to diſtinguiſh between good Leather well and ſufficiently Tanned, and ſuch as though Tanned enough, is in ſome other reſpect defective, either by over-liming, or for want of being well wrought upon the Beam, or by froſt, or hath received ſome damage in drying, ſo that though it may ſerve for inward or middle Soles, yet not for other uſes without damage to the buyer; all which Leather ſo defective, ſhall be ſealed with a different Seal, that it may be known to be faulty.

But that which is not ſufficiently Tanned, ſhall neither be ſealed nor uſed in Boots or Shoos, till it be duely Tanned; And that no Tanner within this Juriſdiction, ſhall upon any pretence ſell, deliver cauſe or ſuffer to be delivered, or paſs out of his hands or cuſtody, any Hide or Hides till being fully dry, they be firſt ſealed by the Officer or Officers thereunto appointed, under the penalty of forfeiting the ſaid Leather or the value of it to the Plantation where the offence is committed.

And it is further Ordered, That if any Shoo-maker ſhall uſe, or put any unſealed Leather either into Boots or Shoos, or put any of the forementioned faulty Leather (though ſealed as ſuch) in any outward Soals, or upper Leather, or in any other place which may be hurtful to the buyer or wearer, or ſhall uſe any other way of deceit, in making up his ware, he ſhall make due and full recompence to the perſon or perſons wronged, and complaining, and ſhall ſuffer ſuch further puniſhment as his offence, conſidered with the circumſtances ſhall require.

And whoſoever ſhall bring Hides from any other parts, and ſhall ſell, or uſe any of them for Boots or Shoos within this Juriſdiction, before they be ſealed by ſome Officer here, according to the import of this Order, or ſhall uſe them in Boots or Shoos contrary to the intent thereof; the Hides ſo ſold or uſed, or the value of them ſhall be forfeited to the Plantation where the offence is committed, or ſuch recompence or fine ſhall be made or paid (if it be only of ignorance) as the caſe may require; provided that if both buyer and ſeller be faulty, they ſhall pay the forfeit betwixt them. The chooſing and appointing of which aforeſaid Sealer or Sealers, the Print or Mark, which each Plantation ſhall ſet upon their Seals, for good or faulty Leather, with the rate to be allowed for ſealing, being left to the ſeveral Plantations.

High wayes.

High-Wayes.

IT is Ordered, &c. That if any High-way be wanting in any Town-ſhip of this Government, upon complaint, that then the Governour or any of the Aſſiſtants Impannel a Jury, and upon Oath charge them to lay out ſuch High-wayes, both for Horſe and Foot, as in the beſt of their Judgements they ſhall finde moſt beneficial for the Common-wealth, and as little prejudicial to particulars as may be: And that all old Foot paths ſhall be ſtill allowed, except other proviſion be orderly made; And that where there are allowed Foot paths over any mans ground, which is fenced up, the Owners of ſuch Fences ſhall make ſufficient Stiles or Gates. High-wayes to be laid out by a Jury

And where there is neceſſary uſe of a particular way to any mans particular ground, for Carting or otherwiſe, through his neighbours Land, where no other way is conveniently to be had, a Jury Impannelled as aforeſaid, ſhall lay it out, as may be convenient for the complainer, and leaſt prejudicial to the Owner of the Land through which it leads; Provided ſtill, that the Town or party concerned, ſatisfie ſuch particular men damnified thereby, as two or three men indifferently choſen by them ſhall determine, if it be not otherwiſe provided for.

And that care be uſed to ſhut up ſuch Gates or Bars allowed to ſuch wayes, that damage may be prevented.

And that Common High-wayes be *forty foot broad*, eſpecially in Wet, Low, Dirty Grounds.

2. It is alſo Ordered, &c. That the Surveyors of High-wayes, ſhall give three dayes warning to particular perſons, for themſelves or their Teams when they are to amend the High-wayes, as often as need ſhall require; And if any be warned as aforeſaid, and ſhall neglect his duty therein, he ſhall pay *two ſhillings ſixpence* a day for himſelf, and *five ſhillings* a day for his Team for every ſuch neglect to the Towns uſe, to be leavied by diſtreſs on his Goods by Warrant to the Conſtable, from any of the Magiſtrates, or Select-men where there is no Magiſtrate near; to whom the Names of ſuch Delinquents ſhall be returned by any of the Surveyors. Surveyors of High-wayes to give three dales warning

3. And that the Surveyor if he ſee cauſe, ſhall hire either Man or Team, as occaſion requires for the ſaid work, and to be paid out of the fines aforeſaid; And that the Surveyors warn not any Man or Team twice to work on the High-wayes, before they have firſt gone over all the Perſons and Teams in the ſaid Town-ſhip as aforeſaid. Penalty for non-appearance to mend high-wales

And that every Surveyor that ſhall neglect his duty in repairing the High-wayes, ſhall forfeit *five pounds* to the Colonies uſe.

4. And that thoſe warned to work on the High-wayes as aforeſaid, ſhall appear at the place appointed or places by the Surveyors, with their Carts and themſelves, fitted with Tools and Implements ſuitable to the work, by the hour of nine in the morning, and work till four at evening, allowing the ſpace of one hour at Noon for Refreſhment. Penalty of Surveyors neglect

Surveighors to give an account at years end &c.

5. And that the Surveyors do at the end of their year, give an account of their actings, and what monies of the Towns may be in their hands, unto the Select men of their reſpective Towns, or ſuch other as the Towns ſhall appoint for that affair.

CHAP. X.

Lands, Inheritances, and Wills.

The tenor of our Lands

IT is Enacted by the Court, &c. That whatſoever Lands have or ſhall be granted by the Court to the reſpective Town-ſhips, or to any particular perſons, either by the Court or particular Town-ſhips, ſhall be held to them, their Heirs, Succeſſors and Aſſignes for ever, according to the moſt free tenor of *Eaſt Greenwich*, in the County of *Kent*, in the Realm of *England*, granted unto us in our Charter or Patent, and our inheritances to deſcend according to the tenor thereof.

Conveyances to be acknowledged before a Magiſtr.

2. That all Sales, Exchanges, Gifts, Mortgages or other Conveyances of Houſes and Lands, ſhall be acknowledged before ſome Magiſtrate, before they be committed to publick Record; Provided that all former Conveyances, that were before this Order, ſhall be accounted good, notwithſtanding they be not, nor cannot be ſo acknowledged, being otherwiſe duely proved.

Lands in partnerſhip

3. That where Lands and Tenements fall in joynt partnerſhip, either by a Gift, Grant or Purchaſe, or otherwiſe, if a partner dye before it be divided, the Heirs or Aſſignes of the Deceaſed, ſhall not be deprived of their right, but ſhall have his or their proportion with the Survivers, as if diviſion thereof had been formerly made; any Proviſion, Cuſtome or Uſage to the contrary notwithſtanding.

It is alſo hereby Provided, That any Partner may ſue out a diviſion, as he or they may ſee reaſon.

Eſcheats

4. It is Ordered, That where no Heir, or Owner of Houſes, Lands, Tenements, Goods or Chattels can be found, upon the deceaſe of the late Teſtator or Proprietor, a true Inventory of every ſuch Eſtate, in all the parts and parcels thereof, ſhall with the firſt conveniency, be duely taken, and a juſt apprizement made upon Oath, by fit men thereunto appointed by a Magiſtrate, or in his abſence by the Select-men of ſuch Plantation where the ſaid Eſtate is, and the whole Eſtate to be ſeized to the publick Treaſury, till the true Heirs or Owners ſhall make due claim thereunto, unto whom the ſame ſhall be reſtored upon juſt and reaſonable tearms.

5. *An.*

5. *An act made* July *10th. 1669. for quieting mens Estates and avoiding suits in Law*;

It is Enacted by the Court and the Authority thereof; That no person or person having had for the space or tearm of *ten years* full past and expired, any Right or Title of entry into or cause of Action for any Lands, Tenements or Hereditaments whatsoever, now detained from him or them, shall thereinto Enter or Commence Suit for, but within *five years* next after the end of this present Session of Court, and at no time after. In what case Entry into Land is barred

And that no person or persons having had for the space or tearm of *eighteen years* fully past and expired, any Right or Title of Entry into, or Cause of Action, for any Lands, Tenements or Hereditaments whatsoever, now detained from him or them, shall thereinto Enter or Commence for, but within *two years* next after the end of this present Session of Court, and at no time after.

And that no person or persons, shall at any time hereafter, make any Entry into, or Commence Suit for any Lands, Tenements, or Hereditaments, but within *fifteen years* next after his or their Right, Title or cause of Action, or Suit, which shall hereafter first descend, fall or accrue to the same, otherwise such Title shall be for ever after barred, and the party or parties claiming, and his and their Heirs utterly excluded from Entry into the same; Provided nevertheless, that if any person or persons which hath or shall have such Right, Title or Cause of Action, be or shall be at the time of the said Right, Title or Cause of Action first descended, accrued or fallen, within the age of *twenty one years*, *Feme Covert*, *non compos mentis*, imprisoned or beyond the Seas, then such person or persons, his or their Heirs shall or may, notwithstanding the said *fifteen years* expired, bring his Action or make his Entry at any time within *five years* next after his or their full age, discoverture, coming of sound minde, enlargement out of Prison, or coming into this Country, take benefit of, and sue forth the same, and at no time after the said *five years*.

It is further Enacted by the Court, &c. That such person or persons as have had Right or Title of entry into or Cause of Action, for any Lands, Tenements or Hereditaments, hitherto detained from him or them, for the space or tearm of *twenty years* fully past and compleat, and neglected hitherto, to make his or their Entry, or to Commence suit for the same, shall be for ever barred excluded and utterly disabled from such Entry or Suit to be made, excepting as in the aboveſaid proviso, according as is provided by the Statute of *England*, made *Anno 21. Jacobi Regis Cap. 16.* Entituled *An Act for Limitation of Actions and avoiding Suits in Law.*

It having been the usual manner and custome of this Court, as much as may be to have recourse to the commendable Laws of *England* in such case wherein there is no other Law by this Court provided more suitable to our condition.

WILLS.

WHereas it hath been formerly Ordered by this Court, That all perſons having Eſtate, Real or Perſonal, being of competent Age, Underſtanding and Memory, may by Will diſpoſe thereof as he ſees cauſe:

Wills and Teſtaments muſt be witneſſed

It is alſo Enacted; That all ſuch Diſpoſals by Will and Teſtament, ſhall be Signed and Sealed by the Teſtator, before one or two ſubſtantial Witneſſes, that may be able to Teſtifie that it was his Will, and that he was when he made it in ſuch capacity as is above expreſſed.

and proved at Court

2. And that ſuch Wills and Teſtaments be Exhibited and Proved by ſuch as are to Adminiſter, at the next Court after the death of the Teſtator if it may be, and that a true Inventory of the Eſtate duely valued, be then alſo preſented and left in Record with the Will, before Letters of Adminiſtration be granted.

and the Will & Inventory Recorded

And if any man dyes without Will, his Widow, or ſuch as would Adminiſter, ſhall preſent an Inventory of the Eſtate as above, at the next Court: And if it be a ſingle perſon, and one that hath no Relations in the Country, or near the place, that then the Governour or next Magiſtrate, appoint ſome meet perſon there to make an Inventory, and preſent it to the next Court.

3. *And inasmuch as ſome perſons may be ſo ſuddenly ſurprized, that they may not have opportunity to make a written Will;*

Nuncupative Wills

It is Ordered by this Court, &c. That in ſuch caſe, if any perſon do make a Will Nuncupative, or a Verbal diſpoſure of his Lands and Eſtate before two good ſubſtantial Witneſſes, that are neither Heirs nor Legatees, and they ſhall within three dayes commit it to Writing, and at the next Court make Oath unto it, it ſhall be Recorded and accepted as a Will.

Widows thirds

4. And if any Married man dieth Inteſtate, his Widow ſhall have one third part of the Rents and Profits of his Lands during her life, and a third of Goods and Chattels, Debts being firſt paid, at her diſpoſe.

Unjuſt Wills amended

5. And it is further Enacted, That if any man do make an irrational and unrighteous will, whereby he deprives his Wife of her reaſonable allowance for her ſubſiſtency, upon the Womans complaint it ſhall be in the power of the Court to relieve her out of the eſtate, notwithſtanding by Will it were otherwiſe diſpoſed; eſpecially in ſuch caſe where the Wife brought with her good part of the Eſtate in Marriage, or hath by her diligence and induſtry done her part in the getting the Eſtate, and was otherwiſe well deſerving.

Double portion to the eldeſt Son

Daughters co-partners

6. And it is further Enacted, That when any man dyeth Inteſtate, and leaves divers Children; the Eldeſt Son ſhall have a double Portion with what he hath already received from him of his Eſtate, both real and perſonal, but ſhall not be inſtated in all the Lands, unleſs the Court ſee cauſe, and the reſt of the Children ſhall inherit as Copartners, unleſs the Court

Court upon good ground ſhall otherwiſe diſpoſe.

7. And if any perſon dye more indebted then their Eſtate of Goods and Chattels can ſatisfie; if he have bought Lands in his life time, to the impairing of his Eſtate, otherwiſe ſuch Lands ſhall be ſold to pay the Debts but not other, further then the Court may ſee cauſe. What caſe lands to pay debts

CHAP. XI.

Fiſhing and Fiſh.

THat Fiſhing and Fowling ſhall be free to all Inhabitants of this Government, Provided that all Orders from time to time made by this General Court, for the due Regulating of Fiſhing and Fowling be obſerved in place or places, wherein ſpecial intereſt and propriety is juſtly claimed by the Court or any particular perſon. Fiſhing and Fowling. Provided that Orders regulating the ſame be obſerved

2. *Whereas by providence, Whales and other great Fiſh are found a drift upon the ſtream, and ſometimes caſt a ſhore in this Juriſdiction*;

It is Ordered, That all ſuch Whales as are caſt up within the Bounds of any particular Town-ſhip, or floating upon the ſtream, within a Mile of the ſhoar, againſt the ſaid Bounds of any Town-ſhip, ſhall be accounted the reſpective Towns falling within their Bounds as aforeſaid, allowing one full Barrel of Merchantable Oyle to the Country for every ſuch Whale, and but half a Barrel if it be waſted or torn away after parted, to be delivered to the Treaſurers order at *Boſton*. Whales.

And whoſoever taketh any Whale on drift at Sea, without thoſe Bounds and limits aboveſaid, and bring them on ſhoar, he ſhall have the one half, and the Country the other half of the Oyl, and the Country to allow caſe for their part of the Oyl.

And whoſoever ſhall finde any Whale a ſhore on the Cape or elſewhere, that is out of any Towns Bounds, and is on the Countries Bounds or Limits, ſhall allow the Country two Hogſheads of Oyl clear and paid to the Country.

3. *Whereas there hath been great inconvenience as is conceived by taking of Mackrel at unſeaſonable times, whereby their increaſe is greatly diminiſhed*;

This Court doth therefore Order, That henceforth no Mackrel ſhall be caught, except for ſpending whileſt freſh, before the firſt of *July* Annually on penalty of loſs of the ſame, the one half to the Informer, and the other half to the uſe of the Colony, and this Order to take place from the *twentieth* of this inſtant *June*. Caching Mackrel at unſeaſonable times

Fiſhing at the Cape Cod.

4. *For the better improving of Fiſhing for Mackrel at the Cape with Saynes or Nets; that the Fiſh be not wholly deſtroyed or driven off the Shoar, with conſtant Beating and Shooting at them with their Nets and Saynes;*

Time of Sayning for Mackrel

It is Ordered by this Court &c. That none ſhall Set, Shoot or hall Sayne on ſhore with Mackrel at the Cape, before the *fifteenth day* of *October* yearly, nor after the *twentieth* of *November*, on penalty of forfeiting for any Mackrel ſo taken without the Compaſs of this time, *eight ſhillings* a Barrel to the Colonies uſe.

And that ſo good a Commodity be not ſpoiled, nor impaired by gripple Perſons, that only minde their preſent beneſit; but that it may be kept ſweet and well preſerved for a Market, and ſo kept a Commodity;

How to be Ordered

It is further Ordered, That all ſuch Mackrel taken by Saynes or Nets at the Cape, ſhall be there ſalted up in good ſufficient Cask, and not in Lumber, neither on Shoar nor on Board of any Boat, Barque or other Veſſel, on penalty of forfeiting to the Colonies uſe, the one half of what is ſo ſalted in Lumber and not in tight Cask.

And foraſmuch as the Lands where ſuch beneſit is made by Fiſhing with Saynes or Nets, hath been purchaſed by the Colony and are truely theirs;

It is alſo Ordered, That no Stranger, or ſuch as are no Inhabitants of this Government, ſhall make uſe of our Lands or Shoar, for Sayning or halling of Fiſh, but ſuch as this Court give Licenſe to, on penalty of forfeiting all the Fiſh of any kinde ſo taken by any without leave.

And all Strangers that ſhall be allowed there to Fiſh as aboveſaid, whether taken in as partners with any of ours or otherwiſe, ſhall pay unto our Water Baily, or ſuch as the Court ſhall appoint to receive it, for the uſe of this Colony, *two ſhillings* for every Barrel, or quantity of a Barrel of Mackrel there caught in ſuch a way; and ſuch of our own Inhabitants as do ſo Fiſh there, ſhall pay *one ſhilling* a Barrel, and all ſuch payments, whether by our own or Strangers, ſhall be made in money to the ſaid Baily, or who is appointed.

And that peace and good order may be kept by all that Fiſh there, and that the Colony may not be defrauded of their aue by any;

It is further Ordered; That the Maſter of any Veſſel, that ſhall come there to Fiſh, or ſome known perſon of their company, ſhall preſently upon their arrival there before they take any Fiſh, give under his hand to the Baily or his Deputy, for their peaceable carriage there, and their due obſervance of the Orders of Court concerning their Fiſhing, who

who ſhall thereupon give them a Ticket under his hand for their improving the ſeaſon as aboveſaid: And if any man do refuſe ſo to do, he or they ſhall be diſcharged from making uſe of our Land on ſhoar there, at their peril; And if any prove troubleſome, or diſturb their peace, ſell Liquor to the Indians, prophane the Sabbath, or be otherwiſe diſorderly, the Baily or his Deputy is hereby impowred to carry ſuch before the next Magiſtrate, who may iſſue the caſe, ſend the Offenders to Priſon, or take Bond for their appearance at Court, as he ſhall ſee cauſe, and the whole charge thereof to be born by him or them that do ſo offend.

And that the Water Baily be under Oath, as other publick Officers, as for the faithful diſcharge of his truſt, ſo for his due and ſeaſonable ordering, and giving an account to the Treaſurer for what is the Colonies upon Fiſhing account, within one Month after the ſaid Voyage is ended, or ſooner if it may be.

Herring. And for every Barrel of Herring at any time caught by Nets, on the ſaid Cape Cod Shoar, *ſix pence per* Barrel be paid by any Inhabitant that ſhall ſo take them, and *twelve pence per* Barrel by Strangers.

Baſſe. And whoſoever ſhall take any Baſſe on the aforeſaid Shoar with Nets, ſhall pay to the Colonies uſe *ſix pence per* Quintal, according to a former Order, and to be paid alſo in money.

Treſpaſs by Swine 5. And it is Ordered, &c. That if any Swine, belonging to either *Engliſh* or *Indians*, do there annoy or treſpaſs ſuch as there Fiſh as aboveſaid, in the Mackrel ſeaſons; it ſhall be lawful for any to make ſeizure of ſuch Swine, paying the one half of the value of ſuch Swine to the ſaid Baily or his Deputy for the Colonies uſe.

The profits ariſing by Fiſhing how improved 6. It is alſo Ordered, That the profit ariſing to the Colony by the aboveſaid Fiſhing at the Cape, ſhall be imployed and improved for the erecting and maintaining of a Free School in this Government: The Ordering and Management of which affaire is committed to the Governour and Aſſiſtants, or any four of them as they ſhall judge meet; Provided there be ſome entrance made in order thereunto before *June* Court next, otherwiſe the ſaid profits to be Ordered as that Court ſhall ſee cauſe.

CHAP. XII.

Military Affairs.

The grounds of putting the Colony into a posture of War

IN regard of the many appearances of danger towards the Country by Enemies from abroad, or that may arise within us, Gods providence having disposed us in this Corner of the Western World, so far from our Native Prince and People, that we cannot expect that constant speedy protection and relief that they might otherwise afford us; That we may be therefore in the better capacity according to our power, to defend the interest of God, our Princes interest, and our own;

A standing Council of War

It is Determined by this Court and the Authority thereof; That there shall be at all times a standing Council of War in this Colony, consisting of the Governour and Assistants, as Annually chosen, and the like number of other trusty and able men, chosen also by the General Court, and from year to year filled up, if by death removed, or otherwise any of them may be wanting, or incapacitated to perform their trust.

their power

And the Governour or President is hereby impowred by his Summons, to convene the said Council; who being assembled, or the major part of them, they or any seaven of them concurring, shall have full power to act as a Council of War; In Establishing and Commissionating of Military Officers, in Pressing of Men, Horses, Ships, Barques or other Vessels, Arms, Amunition, Provision, Carrages, or whatsoever else they may judge needfull, for the present Expedition; And also to raise Moneys by Rate, upon the several Townes, or Plantations of this Government, according to their several proportions, to defray the Charge thereof, and their Actings in such a concern to be valid as if done by the General Court of this Colony, Provided they cross not the Articles of confederation between the Confederate Colonies.

A general stock of Arms and Amunition

2. And it is Enacted by this Court, &c. That there shall be alwayes kept and maintained at *Plimouth*, or where else the Court or Council of War shall order it, a General or Publick Stock of Arms and Amunition, to be improved as the Council of War shall order for the common safety: besides which every Town in this Government shall at all times have in readiness in their Town, such a Stock of Arms and Amunition as the Court have or shall particularly proportion them, on such penalty as in our Court Records is expressed.

Town stock

Every mans particular

And every man from the age of *sixteen years* and upwards, shall also be provided with such Arms and Amunition as the Court have determined, upon penalty expressed in our said Book of Records.

3. *And for the better Disciplining and Training up of our men in the use of Arms;*

A General Military Officer

It is Enacted by this Court, &c. That there be at all times a General Officer, under the Title of a Major, or other, who shall have command of all the Horse and Foot of this Government, according to his Commission

miſſion and Inſtruction in our Book of Records.

4. And that in every Town within this Government, there be particular Commanders ſo choſen and Commiſſioned, as is by Order of this Court provided, to exerciſe their reſpective Companies, ſix dayes in the year at leaſt, beſides General Muſters. Particular Commanders

5. Concerning the raiſing of a Troop of Horſe, The number to be raiſed in the ſeverall Towns, their Priviledge, Duty, and Orders, The fines of Commanders, and private Souldiers, Horſe, or Foot, and alſo what are to be accounted ſerviceable Arms; Concerning Military Watches, Alarums &c. See *the Old Book of Orders.* Concerning raiſing of a Troop of Horſe

6. And it is further Enacted by this Court, &c. That if any man be ſent forth as a Souldier, and be ſo maimed in the ſervice, that he is diſabled from following his occaſions, he ſhall be maintained by the Colony whileſt he lives, according to his quality, and the capacity in which he ſerved; and when dead, ſhall have the burial of a Souldier. Maimed Souldiers

7. Be it alſo Enacted, That no Smith in this Government, who is able to do it, ſhall refuſe or neglect to amend any Arms brought unto him for ſuch purpoſe, he being tendred ſuch currant pay as for other work; as he will anſwer it to the Court. Smiths to mend Arms

CHAP. XIII.

ORDINARIES.

Forasmuch as there is neceſſary uſe of Houſes of Common Entertainment, and of ſuch as Retail Wine, Beer, and Victuals; yet becauſe there is ſo much abuſe of that lawful liberty, both by perſons that entertain, and by ſuch as are entertained;

It is Ordered by this Court, &c. That none ſhall keep a Victualling houſe or Ordinary, or ſhall Retail Wine, Beer, Ale, Cyder, or Strong-waters, &c. but ſuch as are Licenſed thereunto by the Court of Magiſtrates, on penalty of *five pounds* forfeiture to the Colonies uſe, except it be for relief of ſome ſick perſon, and the Ordinary Keeper hath none. None to keep a victualling houſe or ordinary but with Licenſe

2. And that whoſoever is Licenſed to keep ſuch publick houſe of Entertainment, ſhall be well provided of Bedding to entertain Strangers and Travellers, and ſhall alſo have convenient Paſturing for Horſes, and Hay and Provender for their entertainment in the Winter, and ſhall not be without good Beer; and if any Ordinary keeper do frequently fail in any or all of theſe, upon complaint, he ſhall loſe his Licenſe. Ordinaries how to be provided

Price of Beer

3. It is further Enacted; That no In-keeper or Ordinary in this Government, shall sell Beer for more then *two pence* the Ale quart, upon penalty of *three shillings and four pence* for every such offence; Nor shall any Vintner or Tavern gain more then *eight pence* upon the quart, in any Wine or Strong-waters that they retail, more then it cost them by the Butte or Cask as they bought, on penalty of *twenty shillings* forfeiture for such offence duely proved.

Wine and Strong waters

4. *Neither shall any Vintner or Ordinary keeper suffer any disorder, by excessive drinking, in or at their House;*

Pen. of suffering any to be drunk

It is therefore Ordered, That he that suffers any person to drink Drunk or to excess in his house, shall be fined for every such offence, duely proved *five shillings*; And he that suffers any Town dweller, unless it be upon any extraordinary occasion, or publick imployment, to stay drinking in his House above the space of one hour, the Ordinary keeper shall be fined *two shillings six pence*, and the Inhabitant so offending *one shilling*.

or stay tipling at their homes

5. And it is further Enacted, That no single person, Labourer or other, shall be Dieted in any Inne or Ordinary in the Town to which he belongeth.

None to be dieted in Ordinaries

And that no Ordinary keeper suffer any Wine or Liquor to be drawn in his House on the Lords day to any, except in case of necessity, for the moderate relief of those that are sick or faint for their necessary refreshment, and not to young persons, or such as need it not, in pain of *ten shillings* to the Colony.

6. *And for the preventing of the great abuse, by the excessive drinking of Liquors and other Drink in Ordinaries, &c.*

Uncivil carrying at Ordinaries

This Court Ordereth, That every Ordinary keeper in this Government, shall be hereby impowred and required that in case any person or persons do not attend Order, but carry themselves uncivily, by being importunately desirous of Drink when denied; and do not leave the House when required; such Ordinary keeper shall return their Names to the next Court, that so they may be proceeded withal according to the nature of the offence: and in case any Ordinary keeper shall neglect so to do, he shall be fined *five shillings for every default.*

7. It is further Ordered by this Court; That two or three men, besides the Constable and Grand-jury-men, be appointed and impowred, in each Town of this Jurisdiction, to have the inspection of the Ordinaries, or in any other places suspected, to take notice of such abuses as may arise in reference to the premises or otherwise, and make return thereof to the Court.

Men in each Town to have inspection over Ordinaries

8. That

8. That no Ordinary keeper ſuffer any Servants or Children, under the Government of their Maſters or Parents to buy or ſit drinking any Strong-liquors or Wine in their Houſes, or where they have to do without liberty from their Parents or Maſters, except in caſe of neceſſity for their relief, in pain of *five ſhillings* forfeit to the Colonies uſe.

Servants nor Children may not buy drink in Ordinaries without conſent of Maſters or Parents

CHAP. XIV.

INDIANS.

IT is Enacted by the Court, &c. That the Indians eſpecially ſuch as live amongſt or near the Engliſh Plantations, be not ſuffered to prophane the Lords day, by Hunting, Fiſhing, Fowling, Travailing with burthens, or by doing any ſervile work thereupon: And if any being forewarned do, and will contemptuouſly offend in that kinde, the Conſtable of that Town, ſhall bring him before the next Magiſtrate, or Select-men where a Magiſtrate is not, who upon proof of the Fact, may puniſh him by fine or otherwiſe, as the matter may be circumſtanced; and the like courſe to be taken with ſuch Indians as ſhall on the Lords day reſort to Engliſh Houſes, unleſs upon extraordinary occaſion.

Indians not ſuffered to profane the Lords day

2. *And whereas it is found by experience, that the Indians who are naturally perfideous, are abundantly more Inſolent and Proud, when they are furniſhed with Engliſh Arms*;

It is therefore Enacted by this Court, &c. That whoſoever ſhall Give, Lend, Trade, Truck, or exchange with the Indians, ſo as to furniſh them directly or indirectly with any kinde of Arms, as Guns, Piſtols, Swords, Rapiers, or the like, or Powder, Shot, or Lead, or Amunition of any kinde, he or they upon due conviction thereof, ſhall forfeit to the Colonies uſe twenty times the value thereof, which if he cannot pay, he ſhall otherwiſe be ſeverely puniſhed, by Impriſonment or otherwiſe: And if any Indians that have Arms have or ſhall at any time manifeſtly appear to be unfaithful and treacherous to us, they ſhall forfeit ſuch their Arms, and not be ſuffered for time to come, to keep any unleſs particularly Licenſed by the Court or Governour.

Prohibition of trading Guns & amunition to the Indians

3. It is alſo Enacted, &c. That whoſoever ſhall ſell unto, or upon any conſideration, furniſh any Indians with any kinde of Boats, Barques, or ſuch like Veſſels, or Sails, or Tackling to fit up any Veſſel, he or they ſhall forfeit to the Colonies uſe, ten times the value of ſuch prohibited Goods, or be otherwiſe puniſhed as the Court ſhall determine.

Prohibition of Barques & boats

To prevent Indians stealing of Swine

4. *Whereas Complaint is made of Indians ſtealing of live Hogs from the Engliſh, and ſelling them, and concealing it by cutting of the ears.*

It is Enacted by the Court, That henceforth no Indians ſhall give any ear-mark to their Swine, upon the penalty of the forfeiture of ſuch Swine, one half to the Country, and the other half to him that ſhall make ſeizure on them; neither ſhall any Indian bring any Swine to ſell, with their ears cut off, or ear-marked, on the ſame penalty as above, except he bring good Teſtimonies that he honeſtly obtained ſuch Swine ſo marked, of ſome Engliſh.

And to prevent controverſie about Swine;

It is Enacted, That no Engliſh ſhall claim any Swine in cuſtody of the Indians, but by their ear mark.

5. Be it alſo Enacted, &c. That no perſon, whether Inhabitant of this Government or other, ſhall Purchaſe, Hire, or receive of Gift of the Indians, any Lands that lie within the Line of this Government, without the allowance and order of this Court, on pain of forfeiting for every Acre ſo bought, hired or any way obtained of them *five pounds* to the Colonies uſe. And if the fine or forfeiture cannot at preſent be obtained, the Lands ſo procured ſhall be forthwith ſeized for the Colonies uſe.

Nor Timber or Herbage

Neither ſhall any Buy or Hire, or receive of Gift, any Wood, Timber, or Herbage of the Indians, without the Courts allowance on pain of forfeiting five times the value thereof to the Colonies uſe.

Horſes may be ſold to the Indians on condition

6. It is Enacted by the Court, &c. That liberty be hereby granted to the Engliſh in this Government, to ſell Horſes to the Indians, Provided every Horſe ſo ſold be brought to the Town-Clerk of that Town where he is ſold, and *ten ſhillings* in money, and delivered to the ſaid Clerk for the Colonies uſe, who ſhall Record his Mark or Marks, and have *twelve pence* of the ſaid Money for his pains; and in caſe any ſhall ſell any Horſes or Horſe Colt to the Indians, and neglect ſo to do, he ſhall forfeit every ſuch Horſe, or the value thereof to the Colonies uſe.

But no Mares ſold nor kept by them

But no perſon within this Government, ſhall ſell or give any Mare to the Indians, in pain of the forfeiture of every ſuch Mare, or the value thereof to the uſe of the Colony: And that no Indian ſhall be ſuffered to keep any Mare in this Colony, on like penalty of the forfeiture of evere ſuch Mare to the Colonies uſe.

And that the Country may not be defeated of the aboveſaid ten ſhillings, under pretence of lending Horſes to the Indians, although ſold to them:

It is therefore Ordered; That none ſhall give, lend or hire any Horſe or Horſe Colt to any Indian or Indians in pain of *ten ſhillings* forfeit to the Colonies uſe.

7. *Whereas notwithſtanding many Orders have been made for the prevention of Drunkenneſs amongſt the Indians, yet it doth abound amongſt them to the diſhonour of God, and occaſion of many Outrages done amongſt them, and other inconveniences like more and more to enſue, if no ſtop be put thereto*;

It is therefore Ordered by this Court, That whatſoever perſon or perſons, doth directly or indirectly Give, Sell, Truck or Barter, or any wayes

wayes procure to or for any Indian or Indians, any Wine, Cyder or Strong-liquors, by whatſoever name the ſaid Liquor may be called, ſhall for every ſuch offence forfeit, *five pounds* fine to the Colonies uſe; Provided this Order ſhall not extend to reſtrain any charitable act, in relieving any Indian *Bona fide*, in any ſuddain exigent of ſickneſs, faintneſs, &c. not exceeding one dram or two, or by the preſcription and direction of ſome Phyſitian, under the hand of a Magiſtrate firſt obtained.

And it is Ordered, That the Accuſation, Information or Teſtimony of any Indian or other probable circumſtance, ſhall be accounted ſufficient conviction of any Engliſh perſon or perſons ſuſpected to Sell, Trade or Procure any Wine, Cyder or Liquors as aboveſaid, to any Indian or Indians, unleſs ſuch Engliſh ſhall upon their Oath clear themſelves from any ſuch act of direct or indirect Selling, Trucking or Lending of Wine, Cyder or Liquors to any ſuch Indian or Indians, and the ſame counted to be taken for conviction of any that Trade any Arms or Amunition to the Indians.

And in caſe any ſuch offender be not able to pay his or their fine as aboveſaid, every ſuch offender ſhall be publickly whipt.

And it ſhall and may be lawful for any man to ſeize any Liquor, Cyder or Wine found in the cuſtody of any Indian or Indians, and have it for his pains, Provided he bring the ſaid Indian or Indians before a Magiſtrate, or the Select Men of the Town, to be further examined about it.

CHAP. XV.

HORSES.

WHereas many Queſtions, and ſometimes troubleſome Suits and Conteſts, grow between perſons about Horſes running together in the Woods unmarked, &c.

It is Ordered, That each Plantation within this Government, have a particular Brand-mark, to diſtinguiſh the Horſes of one Plantation from another, as by Order of Court hath been in that caſe provided and in uſe amongſt us: beſides which, every Owner ſhall mark every of his Horſes, Mares or Colts with ſome diſtinguiſhing mark, and that before Witneſs, whereby one mans Horſe kinde may be known from another, and that in each Plantation there be an Officer appointed, either the Town Clerk, or ſome other fit perſon, to Record each particular mans Horſe kinde, with the Marks, Natural or Artificial, with the Colour and Age thereof, as near as may be known, with the year and day of the month, and to require as ſatisfying evidence of his right, who preſents any ſuch Horſe-kinde to be Recorded as may be had, and to Record any defect of due

Horſes to be Branded

Markt

Entred

Fees for entry

evidence, that a way may be open to other claims, and ſuch Officer to have *ſix pence* for every Horſe-kinde ſo Recorded of the Owner thereof.

Forfeiture for Non-entry

And that whatſoever Owner of ſuch Horſe-kinde, ſhall neglect to preſent them, or the Mark and Age thereof to ſuch Officer, to be Recorded, being above *one year old*, from time to time, at or before the firſt of *March* Annually, ſhall forfeit *five ſhillings*, the one half to the Town, and the other half to the Informer, excepting ſuch Horſes as any Owner keeps on his own ground.

and carrying away without entry

And that no perſon take up any Horſe kinde running in the Woods, to carry out of the Town ſhip where they go, without firſt bringing them to the Officer aforeſaid, to be Recorded, and to receive a Note from under his hand of the Marks, with the Date thereof, on pain of *forty ſhillings* to the Colonies uſe; Paying like Fees to the Officer as aforeſaid.

Strayes to be cryed

2. If any man ſhall take up any Stray-horſe, Mare, or Horſe-kinde, he ſhall within one Month give notice of it, with the Age (as near as he can) and his colour and marks, that ſo the Treaſurer may cauſe them to be cryed at three Courts next following; and if any Owner be found, paying all due charges for his taking up and keeping, he ſhall have his Horſe or Beaſt: But if after he hath been ſo publickly cryed, no Owner appear in a year after he was firſt cryed; ſuch Horſe, Mare or other Beaſt, ſhall be one half to the Country, and the other half to him that took him up.

and no Owner appearing ſhall be one half to the Colony, and the other to him that findes them

Strayes how uſed

It is alſo Ordered, &c. That whoſoever takes up any ſuch Stray-Horſe, Mare, &c. ſhall keep them well, and not wrong them by Drawing, Riding or otherwiſe, whileſt he is upon ſuch enquiry as aboveſaid; and that during the time, he ſhall alwayes keep a Wyth about the neck of the Stray, by which it may be commonly known.

Stature of ſtone Horſes to go at large

on penalty

3. It is Enacted by the Court, That none ſhall ſuffer to go at large to feed, in any Commons within this Government, any Stoned Horſe, being above *two years old*, and not *thirteen* hands high at leaſt from the lower part of the Hoof to the upper part of the Wither, every hand containing *four Inches* Standard meaſure, in pain to forfeit the ſame Horſe or the value thereof, the one half to the Country, and the other half to him or them which ſhall ſeize ſuch Horſe of lower ſtature; So that firſt by the Aſſiſtance of the Conſtable, or Select-men of any Town-ſhip where ſuch ſeizure is made, or ſeizor dwelleth; Such Horſe being by the ſeizor firſt brought to the next Pound, ſhall there by ſuch an Officer, in the preſence of three ſufficient men, be meaſured and found lower then the Stature above mentioned: This Order to take place from and after the *firſt* of *October*, *1670*.

What fence ſufficient againſt Horſes

4. That ſuch Fences as are adjudged ſufficient againſt ordinary Neat Cattle, ſhall be allowed ſufficient againſt Horſes and Mares; And if Horſes be ſo wilde that they cannot be impounded, the Owner ſhall nevertheleſs ſatisfie the damage proved to be done by them, as if impounded; and if the Horſe-kinde which ſo trepaſſeth be not marked according to Order, the Owner for ſuch ſhall pay double damage.

5. *And*

5. *And whereas there hath been great Complaint of much Damage done by Horſe-kinde, and that many of them are and belong to Forreigners, either hither brought, here bought, or known to the Owners thereof to be ſtrayed into this Colony, and here let run with their Increaſe year after year, to the great Damage and Annoyance both of Engliſh and Indians*;

It is therefore Ordered, That all ſuch Forreigners Horſe-kinde (other then accidentally ſtrayed, without the knowledge of the Owner) ſhall be taken out of this Colony by the laſt of *December* next, in pain of the forfeiture of every ſuch Horſe-kinde, the one half to the Colony, and the other half to him or them that ſhall take every ſuch Horſe-kinde, found within this Colony after the ſaid time, other then ſuch ſtrayes as aforeſaid, which ſhall be dealt with as by Order in that Caſe provided.

And this Court Willeth, That all ſuch as are Inhabitants, as have any Inſpection over any the ſaid Horſes, to give timely notice thereof to the Owner of ſuch Horſes as aforeſaid.

ERRATA.

PAge 1 Line 4 Sect. 1 *for* in Act *read* Enact. page 3, 5, 7. in the Title, *read New-Plimouth Colony.* page 4 line 26. Sect. 10 *for* ſurely *read* ſeverely.

THE

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